

ECONOMIC DOCTRINES OF ISLAM

Vol. II

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PREFACE

To The Second Volume

It is with great pleasure that I present the second volume of *Economic Doctrines of Islam* to the readers. Every effort has been made to explain the various aspects of the Economic System of Islam in a simple and lucid language.

The book will be published in four and not two volumes as mentioned in the first volume.

First volume explains the basic principles of the Economic System of Islam and discusses the four factors of production and their role in the system.

Second volume discusses the problems involved in determining the shares accruing to the various factors of production.

Third volume explains the modern theories of interest and presents the Islamic Theory of Zero Rate of interest. It also discusses the system of *Zakat* and the Law of Inheritance and their place in the Islamic System.

Fourth volume deals with Monetary System, Interest-Free Banking and Insurance, International Monetary Standard and Public Finance.

AFZAL-UR-RAHMAN

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Chapter 4

INDUSTRY

The development and growth of industry plays a very important part in the economic prosperity of a country. And no country can permanently maintain its prosperity without industrial progress. The Holy Quran has, therefore, by mentioning a few of the industries which were prevalent in olden times, reminded the Muslims of their great importance in the economic life of a nation.

(1) **Iron and Steel Industry :** There is a mention of these industries in *Sura 'Sabā'* in these words :

"And certainly We gave David abundance from Us—And We made the iron pliant to him". (34 : 10)

The making of iron pliant for the Prophet David signifies the extensive use of this metal, especially in the battles. And again reference to the coats of mail in the next verse of the same *Sura* shows its extensive use in battles :

"Saying ; Make ample (coats of mail), and assign a time to the making of coats of mail and do ye good". (34 : 11)

This verse may be interpreted in either of the ways. According to one version the Prophet David is here told to prepare himself and his army for severe battles, hence the necessity of coats of mail for protection against enemy attack. But according to some commentators, the Prophet David is here advised not to earn his living by hard labour in an industry such as the making of coats of mail.

Again there is reference to iron industry in the following words :

"Bring me blocks of iron. At length when he filled up the space between the two mountain sides, he said, blow". (18 : 96)

(2) **Brass Industry** : The Holy *Quran* mentions use of brass in the story of the Prophet Solomon in *Sura 'Sabā'* in these words :

"And We made a fountain of molten brass to flow for him". (34 : 12)

This verse reveals the development of brass industry in the time of King Solomon. Again it is referred to another *Sura* in the following words :

"When he had made it (as), fire, he said, bring me molten brass to pour over it". (18 : 96)

(3) **Ornament Industry** : The Holy *Quran* mentions ornaments of gold and silver in these words :

"They are adorned therein with bracelets of gold". (18 : 31)

And in *Sura 'Al-Hajj'*, in the following words :

"They are adorned therein with bracelets of gold with pearls". (22 : 23)

Then in *Sura 'Al-Dahr'* :

"And round about them are made to go vessels of silver and goblets of glass, crystal-clear, made of silver—and they are adorned with bracelets of silver". (76 : 15-16)

(4) **Pearls Industry** : There is a reference to this industry in the following words :

"There come forth from them both pearls, large and small—As thought they were rubies and pearls". (55 : 22, 58)

(5) **Silk Industry** : The Holy *Quran* describes different silk dresses and silk manufactures worn by the inhabitants of Paradise in these words :

"Reclining on beds, whose inner coverings are of silk brocade". (55 : 54)

Again in *Sura 'Al-Hajj'* :

"And their garments therein are of silk". (22 : 23)

Then in *Sura 'Al-Kahf'* :

"And they wear green robes of fine silk and thick brocade, reclining therein on raised couches". (18 : 31)

And in *Sura 'Al-Dahr'* :

"On them are garments of fine green silk and thick brocade". (76 : 21)

(6) **Carpet Industry** : The Holy *Quran* mentions the use of carpets with reference to a life of luxury and pleasure in the Paradise in the following words :

"And the cushions set in rows, and carpets spread out". (88 : 13-16)

And in *Sura 'Al-Rahman'* :

"Reclining on green cushions and beautiful carpets, which then of the bounties of your Lord will you deny". (55 : 76)

(7) **Furniture Industry** : Furniture industry is also mentioned with reference to the life in Paradise in these words :

"Reclining therein in raised couches". (76 : 13)

Then in *Sura 'Al-Ghashiyah'* :

"Therein are thrones raised high and drinking-cups ready placed". (88 : 13-16)

And in *Sura 'Al-Kahf'* :

"Reclining therein on raised couches. Excellent the recompense ! and goodly the resting place!" (18 : 31)

These are the worldly things that men of high position possess and enjoy. The Arabs, whose only wealth consisted of their camels and horses, and whose clothes were made of skins or cloth of rough textures, are given here the good tidings of a life of luxury in the near future. It was not very long when they found the treasures of Rome and Persia laid at their feet, and the bracelets of gold and the silk brocade interwoven with gold, which they had never seen before, were now brought to them in abundance, while the gardens of Mesopotamia, Persia and Palestine were given to them for a permanent heritage".¹

(8) **Leather and Footwear Industry** : There is a reference to the leather industry in the Holy *Quran* in these words :

1. *Bukhari, Urdu Edition, op. cit., Vol. I, p. 490, No. 2049.*

"He has given you houses of the skins of cattle, which you find light to carry on the day of your march and on the day of your halting". (16 : 80)

Then in Sura 'Tā Hā' in the following words :

"Surely I am thy Lord, Lord, so take off thy shoes ; surely thou art in the sacred valley Tuwa". (20 : 12)

The Holy Prophet laid great emphasis not on the development of industries and advised his companions not to waste any material that could be utilised in the manufacture of something. He could not even tolerate wastage of the skin of a dead goat and told his followers to utilise it in making something in these words¹ :

"The Holy Prophet saw a dead goat and said : "why don't you get some use out of it ? The companions replied that it was dead. Then the Holy Prophet said that only its eating is forbidden (not the use of its skin)".

(9) **Textile Industry** : The Holy Quran mentions the textile industry in these words :

"And of their wool and their fur and their hair, household stuff and a provision for a time.—And He has given you garments to save you from the heat". (16 : 80-81)

It may here be pointed out that the mention of one of the two opposite co-relatives always involves the other. Mention of day at once suggests its opposite night. Hence protection from heat spoken of here, signifies protection from heat and cold alike.

(10) **Glass Industry** : The glass industry is mentioned in the story of King Solomon in these words :

"He said : surely it is a palace made smooth with glass". (27 : 44)

It seems that King Solomon had palaces with glass floors where water was made to flow under the smooth glass surface.

(11) **Building Industry** : There is a reference to the building industry in Sura 'Al-Fajr' :

1. Bukhari, Urdu Edition, op. cit., Vol. I, p. 490, No. 2049,

"Hast thou not considered how thy Lord dealt with Ad, of Iram, having lofty buildings, the like of which were not created in the land". (89 : 6-9)

Then the Holy Quran mentions, in connection with buildings, stone-carving, engraving etc., in these words :

"You make mansions on its plains and hew out houses in the mountains". (7 : 74)

And again in Sura 'Al-Fajr' :

"And with Thāmūd, who hewed out rocks in the valley". (89 : 9)

And in Sura 'Sabā' :

"Certainly there was a sign for Saba in their abode—two gardens on the right and the left". (34 : 15)

(12) **Ship-building Industry** : There is mention of ship-building in the story of Prophet Noah in these words :

"And make the ark under Our eyes and Our revelation—and he began to make the ark—And it moved on with them amid-waves like mountains". (11 : 37-42)

Again in Sura 'Al-Qamar' :

"And We bore him on that which was made of planks and nails, floating on before Our eyes". (54 : 13-14)

(13) **Ceramic Industry** : The Holy Quran mentions ceramic industry in the following words :

"I have come to you with a sign from your Lord, that I determine for you out of dust the form of a bird." (3 : 48)

Then in Sura 'Al-Naml' :

"Surely it is a palace made smooth with glass". (27 : 44)

(14) **Brick Industry** : The brick industry is mentioned in the story of Prophet Moses in these words :

"So kindle a fire for me, O Haman, on bricks of clay, then prepare for me a lofty building". (28 : 4)

And in Sura 'Al-Mu'min' :

"Pharaoh said : "O Hāmān ! Build me a lofty palace, that I may attain the ways and means—of (reaching) the heavens".

(40 : 36)

(15) **Match Industry** : There is a reference to the match industry in the Holy *Quran* in these words :

"We produced fire for you out of the green tree, so that with it you kindle". (36 : 83)

Then in Sura 'Al-Wāq'iah' :

"See you the fire which you kindle ? Is it you that produce the trees for it, or are We the producers?" (56 : 71-73)

(16) **Vegetable Oil Industry** : The vegetable Oil industry is mentioned in the Holy *Quran* in the following words :

"And a tree that grows out of the Mount Sinai, which produces oil and relish for the eaters". (23 : 20)

There seems to be reference in this verse to the olive tree, which produces oil and has many other uses for the people.

(17) **Mining Industry** : The Holy *Quran* mentions mining of iron in these words :

"And We sent down iron, wherein is great hardness and advantages to men". (57 : 25)

It may be mentioned that *Anzala* (انزل) not only means sending down something from above, but also means to cause a thing to grow, or dig from the earth with hard labour.

Then in Sura 'Sabā' :

"And We made a fountain of molten copper to flow for him".

(34 : 12)

The Holy Prophet greatly emphasised the importance of mining and asked the Muslims to work hard to find the hidden treasures of the earth in these words¹ :

"Aishah reports that the Holy Prophet said : "Seek your livelihood in the hidden wealth (treasures) of land".

1. *Tibrani and Kanz-al-Ummāl*, Vol. II, quoted by Dr. Yusuf-ud-Din, op. cit., p. 176.

The purpose of mentioning all these and many other industries in the Holy *Quran* was to remind the believers that it was now their turn to develop the multifarious industries on the earth for their benefit. In fact, Allama Jassas, as referred to earlier, makes it an obligatory duty of the Muslims to exploit the natural resources of the earth and to utilise them in the development and growth of as many new industries as possible on it.

Chapter 5

CONSUMPTION

Introduction :

Consumption is the last and most important stage in the production of wealth. In fact, consumption is the end of all production. Wealth is produced only to be consumed. Wealth produced today will be consumed tomorrow. Consumption, therefore, play a very significant part in the economic life of individuals as well as nations. As such, it is absolutely necessary that one should be very careful in the consumption of wealth. There may be abundance of wealth in a country, which may have an equitable and just system of exchange and distribution, but if wealth is not spent wisely or is wasted on unnecessary and luxurious things, the very purpose of wealth, its equitable exchange and distribution, will be defeated. It is, therefore, essential that the flow of consumption should be guided into right and proper channels in order that wealth be utilised in the best possible way.

Quality and Purity

The Holy *Quran* gives us very enlightening instructions with regard to consumption. It encourages the use of good and useful things and discourages wasteful and unnecessary expenditure. It enjoins the Muslims to eat and use only good and pure things in the following words :

"They ask thee as to what is allowed them. Say: The good things are allowed to you". (5 : 4)

In Sura 'Al-Baqarah' :

"O you who believe, eat of the good and pure things that We have provided with". (2 : 172)

In Sura 'Al-Mu'minūm' :

"O ye Messengers, enjoy (all) things good and pure". (23 : 51)

In Sura 'Al-Mā'idah' :

"This day (all) good and pure things are made lawful for you". (5 : 5)

In Sura 'Al-Nahl' :

"So eat of what God has given you, lawful and good things". (16 : 114)

In the above-quoted verses of the Holy *Quran* the word used for good things is طيب which means anything one finds pleasing, sweet, good, agreeable in sight, smell and eating.

Thus in one word, the Holy *Quran* has laid down the general principles which govern consumption of wealth in a Muslim society. The Muslims are clearly advised to spend their wealth on things (of direct or indirect consumption) which they find agreeable or pleasing to them. It has not laid down any strict rules and regulations as to what is pleasing and agreeable but has, after prohibiting a few impure and unlawful things, left it to each society to determine its own standard of purity with regard to things of consumption, especially food. This allows great freedom of choice in eatable things to different peoples in different parts of the world according to their social and traditional requirements and temperamental differences.

The Holy *Quran*, by allowing the Muslims to eat everything pleasing and agreeable, has indicated a middle course for them between asceticism, on the one hand, which denounces worldly pleasures and materialism on the other hand, in which people lose themselves in the enjoyment of sensuous and carnal pleasures of life. They are neither denied the enjoyment of pure and agreeable things nor allowed to over-indulge in the material pleasures of life. In other words, abstinence from the worldly

enjoyment is as great an act of ungratefulness as over-indulgence in the worldly pleasure of life. The best and the most successful way of life, according to the Holy *Quran*, is to enjoy moderately the pleasures of life without going to either extremes.

In fact, *Islam* allows a great deal of individual liberty to the people in the field of consumption. They are free to spend on things which are good and pleasing for the satisfaction of their wants provided they do not encroach upon the 'limits of purity'. It may, however, be pointed out that this freedom to spend is limited to good and pure things only. It does not give them the right to spend, rather waste, their property on things which are not conducive to social welfare. Thus the individuals are given full liberty of expenditure on good and pure things provided they do not endanger the security and welfare of the state. This principle is explained in the following verse of the Holy *Quran* :

"He (the Prophet) makes lawful to them the good things and prohibits for them impure things". (7 : 157)

The word خبائث is the opposite of طيب and means all things one finds impure, displeasing, bad, disagreeable in sight, smell, or eating.

Here the *Quran* has allowed the use of pure and agreeable things and forbidden the use of impure and harmful things. Having due regard for individual tastes and habits, complete freedom is given in the enjoyment of the former ; while consumption of the latter which is considered detrimental to the general good of society, and hence, a national waste, is disallowed. In order to safeguard and protect the welfare of society, individual excesses even in the consumption of pure and agreeable things which are likely to damage social welfare, are sometimes disallowed.

The warning is given in more forceful words in the following verse of the Holy *Quran* :

In Sura '*Al-Baqarah*' :

"O men, eat the lawful and good things from what is in the earth, and follow not the footsteps of the devil. Surely he is an open enemy to you". (2 : 168)

In Sura '*Al-An'am*' :

"Eat of that which God has given you and follow not the footsteps of the devil". (6 : 142)

In Sura '*Al-Baqarah*' :

"Eat and drink of the provisions of God, and act not corruptly making mischief in the land". (2 : 60)

There is a reference here to the corruption of society by over-indulgence in luxuries of life. As the devil is supposed to have broken the code of action ordained by God, man is here advised not to commit excesses in the field of consumption and thereby follow in the footsteps of the devil.

3. Golden Mean : The Holy *Quran* has adopted a Golden Mean between the two extreme ways of life, i.e., materialism and asceticism. On the one hand, it forbids excessive expenditure on the gratification of personal desires ; while, on the other, it condemns abstention from the enjoyment of good and pure things of life.

People who abstain from the worldly pleasures are told to change their attitude towards life, in the following words :

"O you who believe, forbid not the good things which God has made lawful for you and exceed not the limits". (5 : 90)

This verse not only denounces the self-denying practices of Christian and Buddhist monks but also the evil and slothful habits of abstaining from the lawful pleasure of life. Thus it explains very clearly that they cannot win God's pleasure by depriving themselves of the good things of life and that piety does not consist in abstaining from the good and pure things of this world.

This balanced approach to the problem of consumption is so important that even the Holy Prophet is cautioned not to abstain from the good and lawful things of life :

"O Prophet, why dost thou forbid (thyself) that which God has made lawful for you. Seekest thou to please thy wives ?"
(66 : 1)

The Holy Prophet is told in this verse not to abstain from anything which is lawful for him merely to please his wives. According to *Umm-ul-Mu'minin Aishah*, the Holy Prophet (peace and blessings of Allah be on him) used to take honey at *Zainab's* house, and *Hafsah* and I agreed to tell the Prophet that he smelled as if he had taken "*Maghafir*", which being done, the Holy Prophet, accepting their word, solemnly promised that he would take honey no more.

In another narration *Aishah* says that :

the Messenger of Allah swore not to go to his wives, so he prohibited himself from having conjugal relations with them. So as regards the oath, he was commanded to expiate it, and as regards the prohibition, it was said to him, "O Prophet, why dost thou forbid thyself that which Allah has made lawful to thee".

According to both these reports the Holy Prophet had decided to abstain from one of the lawful pleasures of this world but was commanded by God not to prohibit anything which was lawful and pure. Thus, by directing the Holy Prophet to remain within limits in the enjoyment of the worldly pleasures, the Holy *Quran* has shown the most balanced approach in the field of consumption i.e., one should be moderate in the consumption of wealth ; neither to abstain from nor to be indulgent in the worldly pleasures like spiritualists and materialists respectively.

4. Wastage of Wealth : In view of the importance of wealth, Islam lays great stress on its proper care and use. It advises people to look after their property very carefully and spend it wisely and judiciously on the satisfaction of their lawful wants. And in order to check wastage of wealth, it enjoins the Muslims not to hand over their property (or wealth) to unwise or immature persons :

"And make not over your property, which God has made a (means of) support for you, to the weak of understanding, and maintain them out of it". (4 : 5)

Reference to the property of orphans in the words, your,

property" is very significant. It indicates that in fact, all property is meant for the use of the community and should under no circumstances be wasted or handed over to such persons, who are weak of understanding, whether minors or grown-ups, and are likely to mis-use it.

The Holy *Quran* shows us the best way of spending our wealth. On the one hand, it lays stress on the transitoriness of life, while on the other, it teaches us that wealth is not a thing to be despised or wasted, for it is the means of sustenance and support for man in this world.

5. Forbidden Foods : The Muslims are given complete freedom in the field of consumption to enjoy whatever is pure and agreeable to them with the exception of a few things which are harmful to social as well as individual welfare. The few things which are forbidden to eat in a Muslim community are mentioned in the following verses of the Holy *Quran* :

In Sura '*Al-Baqarah*' :

"He has forbidden you only what dies of itself, and blood, and the flesh of swine, and that over which any other (name) than (that of) God has been invoked". (2 : 173)

In Sura '*Al-An'am*' :

"Say, I find not in that which is revealed to me aught forbidden for an eater to eat thereof, except that it be what dies of itself, or blood poured forth, or flesh of swine—for that surely is unclean—or what is a transgression, other than (the name of) God having been invoked on it". (6 : 146)

Four things mentioned above are totally forbidden to the Muslims. That which dies of itself and that which is torn by beasts, it was forbidden by the law of Moses also; so was blood ; and the flesh of swine. The Jews held the swine in great detestation, and the mention of the animal in the Gospel shows that Jesus held it in equal abhorrence, which indicates that he too regarded the animal as impure (for eating). While the reference in the verse "that over which any other name than that of God has been invoked" is to the animals over the killing of which

any other (name) than that of God has been invoked. In this case the invocation of any name other than that of God makes the animal slaughtered unlawful and impure, not suitable for eating.

In addition to the afore-said four things, gambling and intoxicants are also prohibited by the Holy *Quran* :

In *Sura 'Al-Mā'idah'* :

"O you who believe, intoxicants and games of chance and (sacrificing to) stones set up and (dividing by) arrows are only an uncleanness, the devil's work; so shun it that you may succeed". (5 : 90)

This verse totally prohibits all intoxicants including wine and all forms of gambling. It is reported that when this verse was revealed a proclamation was announced in the streets of Madinah that wine was prohibited, and in response to this every jar of wine in a *Muslim* house was emptied, so that wine flowed in the streets. Never in the history of the world was such a deep-rooted evil as drinking so suddenly yet so completely eradicated.

6. Characteristics of Consumption: Consumption of wealth in *Islam* has certain peculiarities of its own : Firstly, there is no distinction between spiritual and worldly expenditure. In other religions of the world, there is a clear-cut line of demarcation between religious expenditure and non-religious or worldly expenditure.

There are definite actions which can be called religious and spiritual, while others as non-religious or worldly. *Islam* makes no such distinction between one kind of expenditure (or action) and another. Just as it is an act of piety and virtue to spend on the widows, orphans and the poor, similarly, it is considered virtuous to spend on yourself, your children, parents and relatives. To say prayer or to go for pilgrimage to Mecca is as good and virtuous an act as to go to office or to do business or anything else to earn your livelihood by hard and honest labour. The following verse of the Holy *Quran* is very significant in this respect :

"They ask thee as to what they should spend. Say : whatever wealth you spend, it is for the parents and the near of kin and the orphans and the needy and the wayfarer. And whatever good you do, God surely is a knower of it". (2 : 215)

The words "whatever good you do, God surely is a knower of it" clearly indicate that whatever you spend for the good of the poor and the helpless, regardless of their relation to you, is an act of virtue in the eyes of God for which you shall be amply rewarded.

Islam has laid great emphasis on spending for the good of one's family and has called it an act of worship as shown by the following *Hadith* of the Holy Prophet¹.

"The Holy Prophet said that when you spend one dinar in the name of God, one to free a slave, one you give to the needy and the helpless, one you spend on your own family ; the dinar you spend on your family will be considered an act of piety and virtue and will be most generously rewarded by God".

In fact, *Islam* regards all expenditure on one's parents, children and even one's own self as an act of piety and virtue and a form of worship. This is further explained by the following *Hadith* of the Holy Prophet :

"Once a man asked the Holy Prophet as to what he should do with a dinar he had got. The Holy Prophet replied : "Spend it on your self". The words of another Hadith are : "Begin (by spending) on your own self".²

"The Holy Prophet once said, "Whatever you spend on your wife (seeking the pleasure of God) is charity (and an act of worship) on your part".³

"On another occasion the Holy Prophet said, "Whatever you spend on your self, your children, your wife and your servant is charity on your part".⁴

1. *Muslim, Tirmizi* quoted by Dr. Yusuf-ud-Din, *Islam Kay Muashi Nazriay*, Vol. 2nd, op. cit., pp. 558-559.

2. *Abu Daud*, quoted by Dr. Yusuf-ud-Din, op. cit., p. 559.

3. *Bukhari*, Urdu translation by Mirza Hairat Dehlvi, Vol. III, *Kitab Nafaqat*, pp. 98-99.

4. *Muslim, Abu Daud, Nasai*, quoted by Mishqat, op. cit. Vol. I pp. 333-334, No. 1824, 1833.

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4. *Muslim, Abu Daud, Nasai*, quoted by Mishqat, op. cit. Vol. I pp. 333-334, No. 1824, 1833.

According to Abu Hurairah, the Holy Prophet said, "A man who exerts himself on behalf of the widow and the poor (i.e., helps them in their difficulties) is like one who struggles in name of God or keeps awake at night (in prayer) and fasts during the day".¹

Thus Islam enjoins expenditure of wealth first on one's own self, then one's wife and children, relatives etc. And all this expenditure is considered as an act of worship or prayer. The famous proverb, "charity begins at home", explains very well the significance of the above principle of Islam.

Secondly consumption is not confined to necessities of life or necessities of efficiency but includes comforts and even lawful luxuries of life. The Holy Quran very generously allows us to benefit from the comforts, conveniences and many of the luxuries of life as will be explained later in this chapter. It not only permits the enjoyment of higher pleasure of life but it also offers a position of honour in its system to those who enjoy the comforts and luxuries of life provided they keep within the allowed limits. King Solomon was a prophet and at the same time enjoyed all the comforts and luxuries of life that one can think of in this world. One of the companions of the Holy Prophet, Caliph *Othman*, was one of the richest men of Arabia and was given the epithet of "the richest" by the Holy Prophet.

Thus the possession of wealth and enjoyment of comforts and even some of the luxuries of life is not considered contrary to piety provided the consumer is neither wasteful nor miserly in his expenditure.

Wants : Wants in economics refer to human needs plus the will and power to satisfy those needs. Thus effective needs, i.e., needs which can be satisfied, are called wants. Wants and their satisfaction are the central feature in the economic struggle of man. In fact all wealth is acquired to satisfy human wants. Therefore we will now discuss human wants and their satisfaction.

1. Muslim, Abu Daud, Nasai, quoted by Mishqat, op. cit. Vol. I pp. 333-334, No. 1824, 1833.

Wants are Unlimited : Human wants are unlimited. There is practically no end to human wants. If one want is satisfied another one arises and if that is satisfied still another one comes in and so man struggles on all his life to satisfy the endless chain of his wants, but is never able to satisfy them all. In fact it is this characteristic of wants that acquires and leads to constant efforts on the parts of man to acquire his ever-increasing wants. The Holy Quran refers to this characteristic of wants in these words :

In Sura '*Al-Maarij*' :

"Surely man is created greedy and impatient". (70 : 19)

Thus by nature man is greedy and ever-impatient to satisfy his insatiable wants. He never stops at anything. Every new want provides further impetus for more and in this way he goes on and on. This is in fact the key to his success and progress.

In Sura-e-'*Al-e-Imran*' :

"Fair-seeming to men is made the love of desires, of women and sons and hoarded treasures of gold and silver and well-bred horses and cattle and tilth". (3 : 13)

The word *زين* shows that love of man for these things is natural and that there is no harm in it provided that it remains within reasonable limits. A moderate love for these things will provide the incentive needed to make man struggle for the satisfaction of his wants.

In Sura '*Al-Fajr*' :

"And you love wealth with exceeding love". (89 : 20)

As wants can only be satisfied with wealth, man loves wealth and struggles hard to possess it. The above verse refers to the hard struggle of man for possession of wealth.

Human feeling of extreme love for wealth is described in Sura '*Al-Humazah*' in these words :

"He thinks that his wealth will make him abide". (104 : 3)

Here are described the feelings of a capitalist who endeavours all his life to earn more and more wealth. He has come to

believe that his wealth will make him abiding in prosperity which will never come to an end but will remain for ever.

The Holy Prophet also referred to the greediness of man and the insatiable nature of his wants on many occasions. According to *Bukhari*, the Holy Prophet said that "if God were to give man a valley full of gold, he would ask for the second, and if he were given the second, he would ask for the third; man would never be satisfied until he was dead".¹

Man's great love for wealth is obviously due to the multiplicity and insatiability of his wants. He is continuously struggling to earn more and more wealth in order to satisfy his ever-increasing wants. As wants never come to an end, human desire to get more wealth never ceases. If there were no wants or wants were limited and satiable, there would not have been so much struggle in life. The world would have been much similar and without the modern hustle and bustle of life. It is true that all human progress and advance in industry, science, technology and even in culture and civilization is the result of human struggle to acquire more and more wealth in its multifarious forms. And we would not be wrong in saying that economic struggle is the key to all human progress.

8 Kinds of Wants Man spends all his wealth on the satisfaction of his wants. Some of his wants are absolutely essential for his life, like food, clothing, shelter etc.; others are necessary to maintain or increase his efficiency of work, like good food, milk, butter etc.; and still others which provide conveniences and comforts of life.

(a) Necessaries of Life: Those wants which are absolutely necessary for human life and without which man cannot survive, for example, food, clothing and shelter etc., are called necessities of life.

(i) Food: Food is considered to be the most important of all the basic needs of man. Man can exist without clothing and

1. *Bukhari*, op. cit., Vol. III, Kitab-ur-Riqaq, p. 313.

shelter under certain conditions but he cannot survive without food. The Holy *Quran* has referred to this basic need of man on different occasions and almost all kinds of foods, like fresh meat, fish, cereals, milk, vegetables, salads, fruits, honey, oils etc., are mentioned in this respect.

In Sura 'Ta Ha' :

"Eat and pasture your cattle." (20 : 54)

In Sura 'Abasa' :

"How We pour down abundant water, then cause the grain to grow therein, and grapes and clover, and the palms, and thick gardens, and fruits and herbage—A provision for you".

(80 : 25-32)

In Sura 'Al-Mu'minun' :

"And surely there is a lesson for you in the cattle. We make you to drink of what is in their bellies, and you have in them many advantages and of them you eat." (23 : 21)

There are several verses in the Holy *Quran* which refer to various foods essential for human beings. Man is particularly asked to eat of the sustenance (provision of food etc.,) provided by God on this earth.

In Sura 'Al-Sabā' :

"Eat of the sustenance of your Lord and give thanks to Him". (34 : 15)

Even in the description of life in Paradise, food is specially mentioned in these words :

In Sura 'Maryam' :

"Gardens of perpetuity which the Beneficent has promised to His servants—And they have their sustenance therein morning and evening". (19 : 61-62)

Again, the importance of food as a basic need of man is indicated in the following verse of the Holy *Quran*, wherein God commands Adam and Eve to live in the garden of Paradise in the following words :

Ia Sura 'Al-Baqarah' :

"And We said: O Adam, dwell thou and thy wife in the garden, and eat from it a plenteous (food) wherever you wish". (2 : 35)

The word (رغدا) means plenteous food and it is indicative of the prosperous condition of Adam and Eve who had abundance of food and other necessary requirements of life.

(ii) **Clothing** : After food comes clothing which is another important need of man. It protects him from heat and cold and adds beauty and good looks to his personality.

There is a reference to the first use of clothing in Sura 'Al-Nahl' in these words :

"He has given you garments to save you from the heat (of the sun)". (16 : 81)

It may, however, be pointed out that mention of one of the two contrary things always involves the other. Honey by the preservation from heat spoken of here, preservation from heat and cold alike is meant. Or as famous grammarian, Zajjaj says, since what preserves a man from heat also preserves him from cold, the mention of the other is omitted.

Clothing at first simply served to cover shame and nakedness and to protect man from heat and cold; but with progress he sought to embellish his person with it. There is a reference to this use of clothing in Sura 'Al-A'raf' in these words :

"O Children of Adam, We have indeed sent down to you clothing to cover your shame (nakedness), and clothing for beauty (and embellishment)". (7 : 26)

The life of Adam, when he was living with his wife in the garden of Paradise and enjoying all the good things of life, is described in Sura 'Tā Hā' in these words :

"We said: O Adam, — surely it is granted to thee therein that thou art not hungry, not naked, and that thou art not thirsty, not exposed to the sun's heat". (20 : 117-119)

In these words, Adam is guaranteed food, water and clothing to protect him from thirst, hunger and heat and cold respectively.

The words clearly show a state of contentment in which all the good things of life, i.e., comfort, ease and happiness are available.

After providing all the necessities of life to man, God is reminding him how he was created and then given food and clothing etc. in the following words :

"He created man from a small life-germ—and the cattle, He has created for you. You have in them warm clothing and (other) advantages, and of them you eat". (16 : 4-5)

(iii) **Shelter** : Like food and clothing, man needs shelter from the wild nature. Islam has given due consideration to this need of man as well. There is mention in the Holy Quran of buildings, palaces, glass houses, tents etc., which man built for his protection and strength in the past. The construction of huge buildings and strong fortresses is referred to in Sura 'Al-Shu'arā' in the following words :

"Do you build on every height a monument?—And you make fortresses that you may abide". (26 : 128-129)

The word آية, literally a sign, is used here to indicate the lofty buildings which should acquire renown as a sign of greatness. These buildings and fortresses were considered safe from the attacks of enemies.

The incident of the Namble (النمل), who took shelter in their houses when the armies of King Solomon passed by, is described in Sura 'Al-Naml' in these words :

"Until they came to the valley of the Naml, a Namlite said: O Naml, enter your houses, (lest) Solomon and his hosts crush you". (27 : 18)

These verses clearly show how man and other creatures of God take refuge in their houses and castles from the wild nature as well as their enemies.

King Solomon's palaces of glass are mentioned in the following words :

"It was said to her (queen of Saba): Enter the Palace. But

when she saw it she deemed it to be a great expanse of water, and prepared herself to meet the difficulty. He said: surely it is a palace made smooth with glass". (27 : 44)

It seems that, in order to impress upon the queen, King Solomon made water flow under the smooth glass floor. The queen mistook the glass floor for the water which ran beneath. Or it could also mean that the glass floor of the palace was so smooth and fine that it seemed like flowing water.

Construction of big buildings and mansions is mentioned in the story of Prophet Salih and Thamud in *Sura Al-A'raaf* in these words :

"And remember when he made you successors after Ad and settled you in the land—you made mansions on its plains and hew out houses in the mountains". (7 : 74)

It appears that these people built great mansion houses in the plains and carved and hewed out houses in rocks for protection against attacks from their enemies.

These verses of the Holy *Quran* clearly show that *Islam* has not neglected any aspect of human life. It has given due consideration to the fact that needs of every man should be satisfied. It has, therefore, made it obligatory upon the *Muslims* to maintain and develop human life in order that every member of the state should be able to obtain his basic necessities of life, including food, clothing, shelter etc. A saying of the Holy Prophet sums up the object of all economic activity of man in these words :

"That is enough for you of this world if it meets your hunger and covers your body, and, along with these, you get some (shelter) to live in; if with these, you get something to ride upon, what else you want".

In these words the Holy Prophet has summed up the basic requirements, which must under all circumstances, be provided to every member of the community.

(b) **Necessaries of Efficiency** : The necessities, which are not essential like food, clothing and shelter, but are necessary

for increasing the efficiency of work, are called necessities of efficiency. A labourer needs good food, including meat, milk, butter etc., to keep him fit and strong so that he may be able to work. These things are necessities of efficiency for a labourer. In fact, anything which increases efficiency of work and makes a man better worker, is called necessary of efficiency. It may be good sleep on a comfortable bed, or a good shoe which keeps a man's feet comfortable. If these things make a man happier and thereby a better worker, they are considered necessities of efficiency. Regular consumption of fruits may also make a man healthier and an efficient worker.

God reminds man of His bounties in the creation of different kinds of fruits and appeals to wise men to try to understand the significances of these things in the following words :

"He cause to grow for you thereby herbage, and the olives, and the date-palms, and the grapes, and all the fruits. Surely there is a sign in this for a people who reflect". (16 : 11)

The people who think and reflect over the use of different kinds of fruits created by God can at once recognise, among other things, the great benefit of fruits in increasing the efficiency of a worker.

(c) **Comforts** : Comforts include things which are neither necessities of life nor necessities of efficiency but provide comfort and convenience to man. Their consumption makes life of man easier and comfortable. A man's ordinary food, clothing and shelter are his necessities of life but good and delicious food, good and expensive clothing and well-furnished buildings and mansion houses are his comforts. Thus comforts may be defined as wants which provide comfort and convenience to man and whose utility in general is greater than their cost.

Enjoyment of comforts is permissible in *Islam*. *Islam* has fully recognised the natural instinct of man to appreciate and enjoy beautiful things in life. It has also shown due regard for his cultural needs. And, in view of the natural instinct of beauty and the cultural needs of man, *Islam* has allowed him, along with his basic requirements, the enjoyment of comforts.

The Holy *Quran* commands the *Muslims* to enjoy the good and beautiful things of the world in these words :

"O Children of Adam, attend to your adornment at every time of prayer ; and eat and drink and be not prodigal ; surely He loves not the prodigals". (7 : 31)

The word زينة is here used to mean adornments or apparel for beautiful living. It signifies not only clothes that add grace to the wearer, but toilet and cleanliness, attention to hair, and other small personal details considered necessary by a cultural person. Even in congregational prayers, in the vast gatherings on Friday and Id days, the *Muslims* are required to have a bath before coming to the mosque, to put their best clothes on and to use perfume. But the caution against excess applies ; men must not wear costly, colourful silken clothes or adornments appropriate to women. Similarly sober food, good and wholesome, is not to be divorced from offices of religion : only the caution against excess applies strictly. But a dirty, unkept, slovenly *faqir* (hermit) could not claim sanctity in *Islam*".

Again in Sura '*Al-Naml*' :

"And (He made) horses, and mules and asses that you might ride upon them and as an adornment". (16 : 8)

"Horses, mules and donkeys as well as other animals may be beasts of burden, but they may also be pedigree animals bred for beauty and for all those more refined uses, such as processions, in which grace and elegance are the predominant features."¹ Similarly the Holy *Quran* has mentioned clothing as a cover for the naked body but the aspect of its beauty and adornment for man is not ignored (7 : 26).

There is a reference to the refined and cultural needs of man in Sura '*Al-Kahf*' in the following words :

"Surely We have made whatever is on the earth an embellishment for it." (18 : 7)

When the Holy *Quran* declares everything of the earth as its ornamentation and decoration, there is no reason why should

we keep to the use of mere necessities of life ? When the Holy *Quran* wishes us to keep our decoration along with the benefit (of satisfaction of our necessities) from the animals of riding, then why should we not take the work of ornamentation and decoration, along with the material (basic) benefit, from things which have been created for this purpose (of decoration) ?

In Sura '*Al-Baqara*' all varieties of fruits are spoken of as your sustenance in these words :

"Who made the earth a resting place for you—and sends down rain from the clouds then brings forth with it fruits for your sustenance." (2 : 22)

The Holy *Quran* has not only declared the attainment of decoration and adornment lawful but has further demanded that every man should live according to his means. If God has bestowed upon anyone abundant wealth, he should live accordingly so that people may know his prosperity from his living. This is stated in Sura '*Al-Nisa*' :

"(God loveth not) those who are niggardly and enjoin niggardliness, and hide the bounties which God hath bestowed on them." (4 : 37)

The words are clear in their meaning that concealment of the bounties of God is equivalent to their denial. A man should live in a way that his food, clothing, shelter and way of living be manifestations of the bounties of God on him. Again in Sura '*Al-A'raf*,' it is said :

"Say : Who hath forbidden the beautiful (gifts of adornment) of God, which He hath produced for His servants, and the good things (of food, clothing etc.) which He hath produced for sustenance." (7 : 32)

By the beautiful (gifts of Adornment) of God is meant the adornment and beauty which God has made lawful for men to avail themselves of. Asceticism, which is the denial of all decoration and beauty in life, has no sanction behind it and is totally condemned in *Islam*. The Holy *Quran* here contradicts such views and allows the enjoyment of comforts, adornment

and beauty in life which God has created for sustenance of man.

It is thus clear that the satisfaction of wants, including comforts, adornment and ornamentation of life is permissible and quite lawful in *Islam*. The Holy Prophet advised his companions to enjoy the good things of this world which God had created for their use. There are many sayings of the Holy Prophet which testify to the fact that enjoyment of the beautiful things of life is not repugnant to the teachings of *Islam*.

Abu-al-Ahwas reports from his father that, he went to the Prophet in dirty clothes. The Prophet asked him, "Are you wealthy"? He replied in affirmative. Then the Holy Prophet asked him what sort of wealth he had? He replied that God had given him camels, goats, horses and slaves. Then the Holy Prophet said, "When God has bestowed His bounty upon you, He likes that the effects of His bounty should appear on you (in the form of better food, better clothing and better living etc.)"¹

According to *Muslim*, the Holy Prophet said that, "God himself is beautiful and He likes beauty."²

The Holy Prophet is reported to have said that, "God has made incumbent on man to create beauty in everything."³

According to *Jabir-bin-Abdullah Ansari*, "We proceeded, along with the Holy Prophet, to the battle of 'Zat-u-Rukah'—there was a man with us for whom we arranged the provision of his journey and, in return, he grazed our cattle. He wore two pieces of cloth which were completely torn. Seeing him in this condition, the Holy Prophet enquired hadn't he got any more clothes with him? *Jabir* replied that he had given him some clothes which he had kept in his bag. The Holy Prophet asked (*Jabir*) to tell him to wear those clothes—He took out his clothes and put them on. When he walked away the Holy Prophet said, "What had happened to him (that he wore torn

clothes while keeping good ones with him)."¹

Aishah reported that she used to put the best perfumed substance which she could find on the clothes of the Holy Prophet and he enjoyed it very much.²

According to *Bukhari*, the Holy Prophet is reported to have said, "Eat and wear to your full satisfaction and give charity without being extravagant and proud."³

All the above-mentioned verses of the Holy *Quran* and *Hadith* of the Holy Prophet testify to the fact that enjoyment of comforts and beautiful things of life is permissible in *Islam* provided it remains within limits and does not lead to excesses. If anything is forbidden, it is shameful and indecent behaviour which is in fact an offence against society and is the result of excessive enjoyment and over-indulgence in the luxuries of this world. (7: 33)

(d) **Luxuries** : Excess in personal gratification or excessive expenditure on unnecessary and superfluous wants is called luxury. The cost of luxuries is usually more than the benefit one derives from their enjoyment, for example, costly dress, wine, utensils of gold and silver etc. *Islam* has forbidden the use of luxuries as they encourage the growth of unproductive and immoral industries and spread mischievous and disruptive elements in society which ultimately destroy the unity and integrity of the entire community. There is reference to this fact in *Sura 'Al-Baqara'* in these words :

"(O Muhammad) they ask thee concerning wine and gambling. Say : in them is great sin, and some profit, for men ; but the sin (harm) is greater than the profit". (2 : 219)

In the same *Sura* :

"O Ye people ! Eat of what is on earth, lawful and good ; and follow not the footsteps of the evil one". (2 : 168)

In these words, it is made quite clear that man can use and

1. *Abu Daud, Kitab-al-Libās*, quoted by Dr. Yusuf ud Din, P. 562.

2. *Muslim* quoted by Dr. Yusuf ud Din, op. cit., P. 189.

3. *Ibid.*, P. 190.

1. *Muatta*, Urdu translation by Waheed uz Zaman, P. 719.

2. *Bukhari*, op. cit., Vol. III, P. 211.

3. *Ibid.*, *Kitab-al-Libās*, P. 188.

enjoy everything and benefit from every material means available to him provided he does not violate and transgress the limitations and commit excesses in the field of consumption. "Follow not the footsteps of the evil one" signifies excessive indulgence in the pleasures and luxuries of life.

It is further explained in *Sura 'Al-Maida'* :

"Eat of the things which God hath provided for you, lawful and good : but fear God, in whom you believe". (5 : 91)

And in *Sura 'Al-A'raf'*

"Eat and drink : but waste not by excess, for God loveth not the wasters". (7 : 31)

The Holy *Quran* has thus permitted the use of all lawful and good things of life to the *Muslims*. They may eat rich food, wear nice and beautiful clothes, live in palatial buildings and lead a very good, happy and comfortable life.

The above verses of the Holy *Quran* state in very clear words that the people have full liberty in the enjoyment of necessities and comforts of life. They are cautioned only when they spend on unnecessary wants and luxuries beyond reasonable limits so that they may not endanger the common good of society by their excessive expenditure and over-indulgence in superfluities of life.

Consumption of luxuries is prohibited sometimes by reminding people of the "fear of God", and sometimes by telling them "not to follow in the footsteps of the evil one". Consumption of luxuries is a "slow killing" poison which gradually but surely destroys every society. The use of luxuries, among other things, makes man idle, wasteful and extravagant. It develops in him bad habits of ease-loving, dependence upon others, laziness, hatred for work, irresponsibility etc. Further he is always ready to go to any extremes (even in committing crimes or sin) to acquire and maintain life of luxury ; he will not refrain from encroaching upon other people's rights and usurping their wealth by unlawful means. All this leads to and spreads bribery, corruption, nepotism, red-tapism, etc. in society. In short, he is

prepared to sacrifice and risk individual as well as common good of society for the gratification of his personal wants. *Islam* has, therefore, forbidden the consumption of luxuries (over-indulgence) so that disruptive elements may not grow in society and cause its destruction.

Besides, in the consumption of luxuries one man benefits at the cost of others which is strictly forbidden in *Islam*. A few capitalists, factory owners and landlords spend millions of pounds to maintain their life of luxury, while the teeming millions (specially in the under-developed countries where difference between the haves and the have-nots is alarming) do not even get their bare necessities of life. Wealth which is wasted so lavishly, mostly on unnecessary and superfluous wants of a few fastidious millionaires, can be better utilized in providing the essential needs of the starving millions. It is in these circumstances, when the majority of people in a country (or in the world) are not able to acquire their bare necessities of life, that the consumption of luxuries is not justified and therefore forbidden.

In view of these evils, the Holy Prophet discouraged and prohibited the use of such things which were considered luxuries :

According to *Ume Salama*, the Holy Prophet said, "Anyone who eats or drinks in vessels of gold or silver pours fire into his belly".¹

Anas-bin-Malik reported, the Holy Prophet said, "Anyone (man) who wears silken clothes in this world, will not wear them in the Hereafter."²

According to *Abu Hurairah*, the Holy Prophet had forbidden the wearing of a golden ring (for men).³

Abdur Rahman-bin-Abi Leila reported : "*Hudhaifah* was in the city of *Madain*. He asked someone to give him water. A peasant brought water in a silver vessel. He threw away water and remarked that the Holy Prophet had said, "Do not wear silk

1. *Muatta*, op. cit. P. 729.

2. *Ibid.*, P. 725 and *Bukhari*, op. cit. Vol. III, P. 198.

3. *Bukhari*, op. cit., Vol. III, P. 203.

or brocade, and do not drink in vessels of gold or silver, and do not eat in bowls made of these metals (as these are luxuries which are enjoyed at the expense of the poor by those who have no fear of God, hence they are forbidden to a *Muslim*); for they are for them (the non-believers) in this world and for us in the next.”¹

These and many other similar *Ahadith* of the Holy Prophet clearly show that, in order to check the excessive indulgence of people in life of luxury, *Islam* has forbidden the consumption of luxuries and unnecessary wants.

Standard of Living :

Standard of living refers to that mode of living and level of comforts which man considers necessary for his life and for the acquisition and maintenance of which he is prepared to make any lawful sacrifice. In simple words, it means the minimum amount of necessities and comforts which man regards absolutely essential for him and for the acquisition of which he can make any sacrifice.

In the gradation of economic standard, *Islam* does not advocate equality, but with regard to the provision of basic necessities of life, it maintains equality and accepts the principle of “right to livelihood” of every member of the state. It ensures that no one is denied the basic needs of life and that no one is left free to waste his wealth in luxuries of life. And it makes it state responsibility to provide the basic needs to its citizens and to keep the differences in economic gradations within moderate and reasonable limits so that the evils of capitalism (i.e. excessive indulgence in luxuries) and communism (i.e., regimentation and unnatural and artificial equality) should not crop up in a *Muslim* community. As a result the economic evils of extravagance and niggardliness in the field of consumption are automatically checked in a *Muslim* society.

Now the question arises : What should be the reasonable standard of living ? How much expenditure on necessities and

1. *Bukhari*, op. cit., Vol. III, P. 197.

comforts of life should be considered reasonable and just ? Should we be satisfied and content with a standard of living which provides us with the basic necessities of life or should we endeavour for a higher standard of living.

There are two schools of thought : one advocates complete abstention from and renunciation of worldly pleasures of life ; while the other considers indulgence in luxuries and enjoyment of worldly pleasures as the goal of life. *Islam* adopts a middle course between these extreme views held by the spiritualists and the materialists respectively. It denounces asceticism as unnatural way of life and condemns materialism as extravagance ; the former leads to austerity and miserliness while the latter makes people prodigal and selfish. *Islam* condemns both miserliness and extravagance and advises people to be moderate in their expenditure.

(a) **Miserliness** : Miserliness applies firstly to such cases where one does not spend wealth on one's self and his family according to one's means ; and secondly when one does not spend anything on good and charitable purposes.

People who abstain from spending on the satisfaction of their legitimate and lawful wants or try to be niggardly in their expenditure in general are regarded criminals in *Islam*. By not spending wealth which God has bestowed upon them, they are committing three crimes. In the first place, they are ungrateful to God for not spending on themselves, their relatives or their friends from the wealth which God has bestowed upon them. The act of ungratefulness of these people is described in *Sura 'Al-e-Imrān'* in these words :

“And let not those who are niggardly in spending that which God has granted them out of His grace, think that it is good for them. Nay, it is evil for them.” (3 : 180)

Again in *Sura 'Al-Nisā'* :

“Surely God loves not such—who are niggardly and bid people to be niggardly and hid that which God has given them out of His grace.” (4 : 36-37)

By calling wealth "Grace of God" people are reminded that the real usefulness of wealth is in fact spending and not hoarding. People who hoard their wealth are ungrateful for not using it for the purpose for which it was created. Besides, by withholding it from the community they are also depriving other people from its usefulness. Thus it is a misuse of the gift of God which was meant to be used for the good of the people.

The above verses of the Holy *Quran* also refer to the second crime which these people are committing by withholding their wealth from the community. They think this act of miserliness is good for them and the Holy *Quran* says that it is not good and useful for them; but is actually evil and harmful to them. By not spending their wealth, they are in fact denying the community of its great usefulness in the process of production. In other words they are wasting public wealth which could be better utilised for the production of further wealth.

Thirdly, by withholding their wealth, they are responsible for lowering the level of consumption and thereby the level of production and employment in the community. And in the words of Dr. J. M. Keynes,¹ "since the expectation of consumption is the only 'raison d'être' of employment, there should be nothing paradoxical in the conclusion that a diminished propensity to consume has *cit. par.* a depressing effect on employment." The words "it is evil for them," used by the Holy *Quran* are comprehensive enough to cover all the economic sufferings and evils (e.g., closure of some industries; fall in the output of others; rise in the level of unemployment etc.) which spring from withholding wealth from the community.

In view of the gravity of the effects of hoarding, the Holy *Quran* further cautions miserly people in *Sura 'At-Takāthur'* in the following words:

"The mutual rivalry for piling up (wealth of this world) diverts you (from realising the good in its spending), until you come to the grave." (102 : 1)

1. *The General Theory of Employment, Interest and Money*, 1954, P. 211.

Love and hunger for social status and prestige makes some people so blind that they acquire and hoard abundance of wealth without knowing its real function and thereby bring economic chaos and misery to millions of people in the community. Saving of wealth may be, up to a point, good and beneficial and therefor permissible, but piling up wealth not for use or service to the community which needs it but for social prestige or similar other natural motive, is an act of sabotage against society and can never be forgiven or tolerated.

Again in *Sura 'Al-Humazah'* the Holy *Quran* condemns people who amass wealth:

"Woe to every slanderer, defamer, who amasses wealth and counts; thinking that his wealth would make him last for ever." (104 : 1-3)

Thus the Holy *Quran* condemns in very strong words all those who pile up wealth unnecessarily and do not spend it for their own good and the good of the community.

(b) **Extravagance:** Extravagance means firstly spending wealth on unlawful things, such as gambling, drinking, art galleries etc., even if the amount involved is insignificant; secondly excessive expenditure on lawful things, whether within or beyond one's means; thirdly expenditure for good and charitable purposes merely for show.

If *Islam* condemns people who are niggardly in spending, it also rebukes those who are extravagant and spendthrift. Niggardliness withholds society's resources from being properly utilised; whereas extravagance wastes them on unnecessary and superfluous wants. The Holy *Quran* condemns this sort of expenditure in the following words:

"And squander not (your wealth) wastefully. Surely the squanderers are the devil's brethren. And the devil is ever ungrateful to His Lord." (17 : 26-27)

According to one commentator "*Tabzeer*" (squander) means spending of wealth which is given for the satisfaction of lawful

needs, on unlawful and immoral wants, such as drinking, gambling etc.

Those who waste their wealth are here called the devil's brethren. They are ungrateful to God for not spending what He has given them out of His grace in a proper and lawful manner. In fact all our expenditure is conditioned by our resources. There is no merit if we merely spend out of bravado or for idle show. How many families are ruined by extravagant expenses on wedding, funerals etc. Besides, this extravagant expenditure stimulates growth of idle, unproductive and luxurious industries in the community.

Again in *Sura 'Al-A'rāf'*:

"Eat and drink, but waste not by excess, for God loveth not the prodigals." (7 : 31)

Thus unnecessary and wasteful expenditure is again and again condemned by the Holy *Quran*. Wastage of wealth which can be utilized for more productive purposes by the community is a very grave sin in the eyes of God. According to *Abu Hurairah*, the Holy Prophet once remarked that one thing at which God was most displeased with you was extravagance (unnecessary wastage of wealth):¹

Golden Mean : *Islam* shows the golden mean between the two extreme ways of life by enjoining reasonable expenditure without being wasteful and economy without being miserly. It advocates moderation both in spending and saving. One should neither be too wasteful and spendthrift as to spend all one's wealth carelessly on luxuries and other needs beyond one's means ; nor one should be so miserly as not to spend anything on one's self or one's family or other good things of life according to one's means. The real purpose of the following *Islamic* teaching is to impress upon the people to spend their wealth according to their means. Their expenditure should neither exceed their income so as to lead them to extravagance nor should it contract far below their means and drag them to

niggardliness. People should become so moderate in their expenditure that it should neither check circulation of wealth (as a result of hoarding) nor should it weaken theirs as well as society's economic strength (owing to extravagance).

The Holy *Quran* explains the principle of moderation in these words :

"And those who, when they spend, are neither extravagant nor niggardly, but hold a just (balance) between those (extremes)." (25 : 67)

This is a very wise and useful rule in ordinary expenditure. But even in charity in which we try to give our best, it is not expected that we should be extravagant, i.e., that we either do it for show to impress other people, or do it thoughtlessly, which would be the case if we "rob Peter to pay Paul." We should certainly not be niggardly ; but we should remember every one's right, including our own, and strike a perfectly just balance between them.

The same principle is stated in *Sura 'Bani-Isrā'il'* in these words :

"And let not thy hand be chained (like a niggard's) to thy neck, nor stretch it forth to its utmost reach (and be prodigal) so that thou become blame worthy and destitute." (17 : 29)

By the phrase "hand be chained to thy neck" is meant being niggardly in one's expenses, and by "stretching it forth to its utmost extent," being so profuse as to waste away all one's substance. The verse supplies a general rule regarding the mean to be adopted in one's ordinary expenditure. We are not to be so lavish as to make ourselves destitute and incur the just censure of wise-men, nor is it becoming to keep our resources from the just needs of those who have a right to our help. Even strangers have such a right, as we will explain later on in chapter on Distribution of Wealth. It is essential that we must keep a just measure between our capacity and expenditure.

Islam has thus given a very suitable answer to the question concerning consumption of wealth ; how much wealth should be

1. *Muatta*, op. cit., P. 780.

spent for maintaining a reasonable standard of living? No better answer can be given to this question than the one we find in Sura 'At-Talaq' :

"Let the man of means spend according to his means ; and the man whose resources are straitened, let him spend according to what God has given him." (65 : 7)

In these words the Holy *Quran* has described the Golden Rule in spending which, if fully implemented, could uproot the economic evils of extravagance and niggardliness so common in the modern capitalist systems. Everyone, whether rich or poor, is advised to spend according to his means. A rich may maintain a higher standard of living according to his means without indulging in extravagance ; while a poor man can maintain a reasonable standard of living (consisting of necessities and a few comforts) with his meagre means. Expenditure of each will, of course, vary according to social duties, economic responsibilities (of maintaining a small or large family) and other needs of the time. But so long as spending is neither extravagant nor niggardly but within the means of the consumer, it is permissible and lawful.

There are many *Ahadith* of the Holy Prophet emphasising the importance and proper use of wealth. According to one report the Holy Prophet once said that every man would be asked four questions on the Day of Judgement : One of the questions would be how he acquired and spent his wealth ?

The Holy Prophet said that every man will be asked about his wealth : How he earned it and how he spent it ?

Qazi Abu Yusuf regards this *Hadith* as the foundation of the economic system of *Islam*, for a little carelessness in the field of consumption is likely to breed different kinds of economic evils which may upset the balance of society. Excessive expenditure in the form of idleness, wastefulness and the growth of unproductive and luxurious industries : while miserliness would create the hardships of unemployment in society owing to contraction of expenditure and fall in the level of production. Therefore it

is absolutely necessary that there should be proper guidance to the people in matters of consumption.

According to another report the Holy Prophet said,

*"Moderation is half of the happiness of economic life."*¹

On another occasion, the Holy Prophet said,

*"Moderation is the best course in everything."*²

Abu Darda reported that the Holy Prophet said,

*"It is a part of intelligence and wisdom of a man that he should adopt moderation in his economy."*³

According to *Abu Saeed Khudri*, the Holy Prophet advised people to adopt moderation in consumption in the following words :

I only fear the things you will be given out of the bounties (wealth) of this world after me." Someone enquired, "What are the bounties of the world?" The Prophet replied, "Wealth of the world." The man again asked, "O Messenger of God! does evil grow even from good?" The Holy Prophet remained silent. We thought the revelation would come. Then the Holy Prophet wiping off sweat from his face said, "Where is the enquirer?" And then remarked, "good comes out of good but wealth of this world is like green grass, if an animal eats it in excess, it kills him or brings him nearer to death. The animals, which eat green fodder, walk in the sun, digest their food, pasture again, are perfectly well. So is the case of wealth, it is a sweet fodder, the best man is one who earns wealth lawfully and spends it on lawful (good) things. This wealth will bear witness against one (who has mis-used it) on the Day of Judgement."⁴

The Holy Prophet always advised his companions to be cautious

1. & 2. *Kanzal-Ummal* quoted by Maulana Muhammad Hifzur Rahman "Islam Ka Iqtisadi Nizam", P. 69-72.
3. *Imam Ahmad* quoted by Maulana Muhammad Hifzur Rahman, P. 72.
4. *Bukhari*, op. cit., Vol. III, P. 311.

and moderate in the consumption of wealth. His famous remarks that "to adopt moderation in one's economy is a sign of one's prudence", is a living testimony to the fact that he himself practised moderation and enjoined his followers to adopt the middle course in everything. Umar, the second Caliph used to pray to God to enable him to properly spend wealth which He had bestowed upon him for sustenance and adornment.

Moderation is undoubtedly the guiding principle of *Islam* in consumption as in other fields of activity. In the field of consumption, it checks the evils of wrongful expenditure i.e., hoarding and extravagance and thereby saves the community from the hardships and evils of unemployment and corruption.

Standard of Life :

Standard of living refers to the minimum amount of necessities and comforts which man regards absolutely essential for him; while standard of life refers to the high ideals and principles which govern his life. A man may have a very high standard of life but a low standard of living. He may have high ideals of life, such as human fraternity and brotherhood, help for poor etc. but may be very poor financially. It is absolutely necessary that efforts should be made to improve both the standard of living and standard of life simultaneously. But in these days every effort is being made to raise the standard of living of the people without any regard for their standard of life. The consequences of this segregation between morality and materialism are likely to be very grave. *Islam*, which is fundamentally opposed to such unhealthy trends in society, takes necessary measures to achieve high standard of living along with high standard of life. It links the two variables together as one without the other is dangerous and harmful. A rise in the standard of life will make people selfish, vicious, unsympathetic and cruel. It is therefore necessary that every effort should be made to improve both the standard of living and standard of life so that society may continue progressing without any hatred or rivalry (the two disruptive elements) between the

different sections of the community.

It may, however, be pointed out that standard of living and its improvement is not the only objective for which all other nobler things of life should be sacrificed. It is true that many people often refuse to accept truth and righteousness, if it involves (or is likely to involve) any loss in economic gain but certainly they are wrong and do not seem to understand what they are doing.

This in no way implies that *Islam* advocates complete austerity in life. It does not demand from people that they should abstain from the pleasures and good things of life. It only enjoins moderation in the enjoyment of worldly pleasures. They are asked to avoid the extremes of miserliness and extravagance and to enjoy the good things of life without being unjust or immoral. In other words, they may enjoy a very high standard of living so long as their standard of life remains fairly high.

Simple Life :

The Holy Prophet, like many other prophets before him, always liked simple and moderate living. He enjoyed the simple pleasures of life without indulging into luxuries or superfluities of life. He ate simple food, wore simple dress, lived in simple ordinary house and had a camel or a horse to ride on. He lived a simple life and advised the *Muslims* to lead in simple life and refrain from the superfluities of life. There are many *Ahadith* which throw light on what kind of life the Holy Prophet lived and preached to the people.

The Holy Prophet once remarked :

"Successful is the man who has acted on the principles of Islam and lived on simple necessities of life".¹

The Holy Prophet said :

"A thing which is scarce but sufficient (to meet the necessities

1. Ahmad, Tirmizi, Ibn Maja, quoted by Mishkat, Urdu edition, op. cit., Vol. II, P. 245, No. 4934.

of life) is better than that which is abundant (but makes man forget himself) and leads him astray (from the right path of moderation)".¹

The Holy Prophet is reported to have said :

"The rocky land of Mecca could be turned into gold for me if I had wished, but I said, O Lord ! I wish I had enough to fill my stomach one day and remain hungry the other day, so that I might remember You when hungry and be thankful to You when my stomach was full".²

The Holy Prophet often prayed :

"O Lord ! Bestow livelihood on my family according to their needs".³

The Holy Prophet, in spite of abundant resources, lived on bare necessities all his life. His four Caliphs maintained his tradition of simple living after him. It is reported about Umar, the second Caliph, that *Utbah-bin-Farqad*, a governor of some province, once visited the Caliph while he was taking his meals. The governor seeing his coarse food, remarked, "why don't you take food made of fine flour" ? Umar replied, "*Ibn Farqad* ! Is there anyone with greater resources than myself in the land of Arabia at present ? *Utbah* said that there was none with greater resources than you. Then *Umar* enquired from him saying, "*Ibn Farqad* ! Do all the Muslims get fine flour (to eat) ?" He replied in negative. Then *Umar* said, "I would be a bad ruler if I were to take nice (and good) things for myself and leave the bad ones for the people".⁴

To sum up, simple living and moderation in the enjoyment of material benefits of life is the sterling principle advocated by *Islam* in the consumption of wealth.

1. *Abu Naeem*, quoted by *Mishkat*, Vol. II, op. cit., P. 248, No. 4962.

2. *Ahmad*, *Tirmizi*, quoted by *Mishkat*, op. cit. Vol. II, P. 245, No. 4935.

3. *Bukhari*, Urdu edition, op. cit., Vol. III, p. 318, No. 1376.

4. *Tarikh Tabri*, Caliphate of *Umar*, quoted by Dr. Yusuf ud Din. op. cit., Vol. II, P. 378.

Chapter 6

EXCHANGE OF WEALTH

Meaning :

Exchange means the transfer of one commodity in return for another. It may be an exchange of one commodity for another commodity, or one commodity in exchange for money ; any commercial bargain which involves transfer of one thing for another, is called exchange. Thus it is double bargain in which one thing is given in return for another. According to the *Muslim Jurists* exchange is defined as the transference of one's goods in return for the goods of another by mutual consent.

In ancient times exchange existed merely in the form of barter, in which commodities were exchanged for commodities. Even now-a-days in many under-developed countries people in the villages acquire their needs through barter. But as man becomes more and more refined and cultured, method of exchange also improves. Now in all the organised communities exchange is done through money. This is because the value of all other commodities or services can be easily expressed and instantly determined in terms of money.

Importance :

Exchange is the central problem of economics which co-ordinates and adjusts consumption and production. In the modern world exchange is indispensable to human existence, for every man does not produce all his necessities of life but, due to specialisation, engages in one type of work or service and for his other

needs is dependent upon others. Thus every man is a specialist in his field alone and through exchange he satisfies his unlimited wants. If every man were to produce everything, then there would be no question of exchange but in the modern age wants have increased to such an extent that it is practically impossible for every man to produce all his necessities himself. Therefore all our wants are satisfied through exchange.

In the early stages of human life there was no need of exchange. The life was very simple and there was no scope for exchange or any economic transactions. Wants were very few and means to satisfy them were also scarce. Every man or family was almost self-sufficient and there was no need of exchange. And now in the modern industrial world, division of labour and specialisation have reached that point of efficiency where business cannot continue even for a day without exchange. It would be more appropriate and true if we say that exchange is indispensable for all advanced economies.

Method of Exchange :

The method of exchange has changed with the needs and the problems of time and place. In different times and countries various methods of exchange have been utilised. One form of exchange in ancient times, as explained before, was barter, in which goods were exchanged. This form of exchange was also common in ancient Arabia.

The Holy Prophet, realising the difficulties and evils of this system of exchange, wanted to replace it by exchange through money. He therefore insisted upon his companions to use money in their transactions. It is reported by *Ata Ibn Yasar* that the Holy Prophet said, "Don't sell dates in return for dates". One man said, "O Messenger of God! Your tax collector in *Khaibar* gives two 'sai'¹ of dates in return for one 'sai'." The Holy Prophet asked him to call the tax collector. He was called and the Holy Prophet enquired, "Did you give two 'sai' of dates in return for one 'sai'?" He replied, "O Messenger of God!

1. *Muatta*, op. cit., P. 544.

One 'sai' of good dates cannot be obtained for one 'sai' of bad dates". The Holy Prophet said, "First sell your bad dates in exchange for money and then buy good dates".

Abu Saeed and *Abu Hurairah* reported that the Holy Prophet appointed some one as tax collector in *Khaibar*. He brought some fine dates and the Holy Prophet enquired: "Are all dates of *Khaibar* like this?" He replied, "No, O Messenger of God! One 'sai' of these dates (i.e., good dates) we buy in exchange for two 'sai' of bad ones, or two 'sai' of good ones in exchanges for three 'sai' of bad ones". The Holy Prophet said: "Don't do like this, first sell bad dates for money and then buy good dates with that money".¹

Abu Saeed Khudri reported that one day *Bilal* brought some variety of dates to the Holy Prophet who asked him: "Where have you bought these from?" *Bilal* replied: "We had some bad dates and we bought one 'sai' of these in exchange for two 'sai' of those (bad ones) in order to present them to you." The Holy Prophet disliked this method of exchange and told them that it was clear 'riba' and they should not do like this. If they wanted to buy good dates, they should sell their bad dates for some thing else (*dinar*), and then buy good dates with it (*dinars*).²

Thus the Holy Prophet discouraged barter transactions in order that the people might use money instead. Apparently he forbade this form of exchange for there was some element of 'riba' (in it), but a little thought over the economic importance of this problem reveals that it has more intimate relationship with other economic aspects of human life as well, which could not remain hidden from the vision of the Holy Prophet. In fact taking into consideration the conditions of his time he explained the evil of this problem in words understandable to every man. Besides prohibiting 'riba' he wanted to replace this old form of exchange by a new and better form of exchange through money,

1. *Muatta*, op. cit., P. 545 and *Bukhari*, op. cit. Vol. I, P. 485, No. 2030.

2. *Bukhari*, op. cit. Vol. I, P. 516, No. 2133.

so that society might prosper rapidly.

The Holy Prophet forbade the exchange of goods not because there was actually no difference in the grades of different commodities but because he wanted to check unfair transactions. The object was partly to end the practice of 'riba' in commercial dealings and partly to discourage barter transaction which was an hindrance in the way of economic progress. As the Holy Prophet was keenly interested in the economic and cultural progress of the *Muslims*, he ended all such transaction and forms of exchange which were not conducive to human progress. For similar reasons barter economy was replaced by money economy.

Wrong and Unfair Methods of Exchange

In order to encourage and maintain fair and just transactions in society, the Holy Prophet forbade all unfair and uneconomic forms of exchange as discussed below:

(a) **Talqi-Jalab (تلقى جلب)**: It was a common practice with the people of *Madina* that, when the farmers brought grain to the town, they would meet them outside the town and purchase all the grain, and then sell it at their own price. The Holy Prophet disliked this method of bargaining for he thought it unfair to the people and therefore forbade it.

Abdullah Ibn Umar reported that "We used to go out to welcome those people who brought grain from outside and purchase it from them. The Holy Prophet forbade us not to buy until it was brought in the market."¹

According to *Abu Hurairah* the Holy Prophet said: "Don't go ahead to receive those people who bring grain to our town."²

The Holy Prophet issued these instructions with regard to the purchase of grain, which was an essential commodity and was required by all, rich as well as poor, in order that it should be sold in the open market. It was also to prevent the capitalists buying the entire stock of grain before it came into the market

1. *Bukhari op. cit.*, P. 479, No. 2001.

2. *Ibid.*, P. 479, No. 1997.

and thus, by becoming its sole suppliers, enabling them to control its price.

(b) **Sale by Al-Hadir-libad (بيع الحاضر لباد)**: Some people worked as agents of the grain-sellers (middle-men) and all grain was sold through them. They earned a profit from both the seller and the buyer and often deprived the cultivator of his just profit and the buyer of a just and fair price. The Holy Prophet forbade this type of bargaining in the interest of the cultivator as well as the buyer.

It may here be mentioned that modern states are now passing Agricultural Marketing Acts to stop similar evils and malpractices harmful to the farmers which the Holy Prophet did over thirteen centuries ago.

Abu Hurairah reported that "the Holy Prophet forbade the dwellers of the town from selling for one coming from the deserts."¹

Ibn Abbas reported that the Holy Prophet said: "No townsman should sell (as an agent) for the outsider." *Ta'ūs* says that he asked *Ibn Abbas* what did it mean that no townsman should sell for the outsider? *Ibn Abbas* replied that "it meant that no one should become his commission agent."²

The purpose of the Holy Prophet, by prohibiting such transactions, was to eliminate the commission agents and the middlemen between the farmer and the buyer and enable them to obtain good profits and reasonable price respectively.

(c) **Sale Munabazah (بيع منابذه)**: In sale *Munabazah*, one man throws the cloth he has for sale towards another and the sale (deed) becomes confirmed, even though the other person may not have touched it or seen it. It means that the seller throws his cloth towards the buyer and the sale becomes confirmed. The buyer does not get any time to examine the cloth or its price. There is every probability of fraud or deceit or misrepresentation in this type of exchange, therefore the Holy

1. *Bukhari, op. cit.*, P. 479.

2. *Ibid.*, P. 478, No. 1993 & P. 479, No. 1994.

Prophet forbade sale *Munabazah*.

Abu Hurairah reported that "the Holy Prophet forbade sale *Munabazah*." *Anas* also reported that "the Holy Prophet forbade sale *Munabazah*."¹

(d) **Sale Mulamasah** (بيع ملامسه): In sale *Mulamasah*, a person purchased a cloth by touching it without opening it or seeing it or examining it. This also was forbidden by the Holy Prophet for it had all the evils of sale *Munabazah*.

Abu Saeed Khudri reported that "the Holy Prophet forbade sale *Mulamasah*." *Anas* and *Abu Hurairah* also reported that the Holy Prophet forbade this type of sale.¹

These two forms of exchange were common in the time of the Holy Prophet but he forbade both types of sales because the buyer was given no time to examine or see the thing he was buying and he could be easily deceived or defrauded.

(e) **Sale Habal-Al-Habala** (بيع حبل الجبل): This type of sale was also very common in Arabia in those days. In this sale, one purchased a she-camel with the promise that he would pay the price when it would give birth to a she-camel and the latter would give birth to a camel or she-camel. This type of sale was also forbidden by the Holy Prophet for it contained an element of conjecture and speculation.

Abdullah Ibn Umar reported that the Holy Prophet had forbidden sale *Habal-Al-Habla*.²

(f) **Sale Al-Hasat** (بيع الحصة): In this type of sale, the seller would tell the buyer that when the latter threw pieces of stones towards the former, the sale would be confirmed. It was also declared unlawful by the Holy Prophet because it had all the ingredients of sale *Munabazah* and sale *Mulamasah* discussed above.³

1. *Bukhari*, op. cit., P. 476, No. 1981 & 1983; *Muatta*, op. cit. P. 546.

2. *Muatta*, op. cit., P. 565, and *Bukhari*, op. cit. P. 576, No. 1980.

3. *Tirmizi*, Bab-al-Bai, Vol. V. quoted by Dr. Yusuf ud Din, op. cit., P. 463.

(g) **Sale Muzabanah** (بيع مزابنه): In this type of sale, the fruit, while on the tree, was estimated and sold in exchange for dry dates or grapes; or simply sale of fresh fruit for dry fruit. This type of sale was also forbidden by the Holy Prophet for it was based on conjecture and could ruin one of the parties if the estimate proved to be wrong.

Jabir reported that "the Holy Prophet had forbidden sale of fruits before ripening."¹

Anas is reported to have said that "the Holy Prophet had forbidden sale of fruit before ripening. Some one asked how to know it was ripe? The Holy Prophet replied that when it became red, and added that if that fruit was destroyed by God, then in exchange for what someone among you would take the wealth of his brother."¹

Abdullah Ibn Umar said that "the Holy Prophet prohibited sale of fruit before ripening."

In all these transactions of *Muzabanah*, speculation or conjecture was the basis of sale and one party gained at the expense of the other. There was always a probability of wrong to one party, therefore it was forbidden by the Holy Prophet. Besides, such bargains were not free from disputes and quarrels which could lead to many economic as well as social evils.

(h) **Sale Muhaqalah** (بيع محاقله): In sale *Muhaqalah*, grain in ear was sold for dry grain. The Holy Prophet forbade this kind of sale as reported by *Abdullah Ibn Umar*, *Abu Saeed Khudri* and *Saeed Ibn Mussayyib*.² This type of sale was very similar to that of *Muzabanah* and possessed all its evils.

(i) **Sale Without Possession** (بيع عينية): The sale of commodities, especially perishable, without obtaining their possession was also forbidden by the Holy Prophet for it contained some

1. *Muatta*, op. cit., P. 572, and *Bukhari*, op. cit. P. 482-483, Nos. 2015-2020.

2. *Bukhari*, op. cit., P. 482-483, No. 2015-2020 and *Muatta* op. cit., P. 572.

element of doubt and fraud. It is reported by *Ibn Umar* that the Holy Prophet said that "any one who buys cereal must not sell it without taking possession of it."¹

According to *Ibn Abbas*, the Holy Prophet had forbidden that any one should sell cereal before obtaining its possession. *Taūs* says that he enquired from *Ibn Abbas* the reason for this prohibition and he replied that it was selling money for money for no cereal was paid at that time.¹

Nafey reported that *Hakim bin Hizam* bought cereal which *Umar* had given to the people. Then *Hakim bin Hizam* sold it before he had taken possession of it. When *Umar* came to know of this, he arranged for the return of all cereal to *Hakim bin Hizam* and said: "Any cereal you buy sell it not before you take possession of it."¹

(j) **Sale Sarf (بيع صرف)**: Sale *Sarf* refers to that transaction in which gold and silver are exchanged for gold and silver. *Malik bin Anas* said that he wanted to convert hundred *dinars* into *dirhams* and he was called by *Talha bin Ubaid Ullah*. We both agreed to this exchange and he took over *dinars* from me and began to turn them over. He asked me to be patient until his cashier returned from *Ghaba'a* place near *Madina*. Hearing this, *Umar* said: "No, By God! Don't leave *Talha* without receiving your money. The Holy Prophet said that the sale of gold in exchange for gold was *riba* except hand to hand; and wheat for wheat was *riba* except hand to hand; and dates for dates was *riba* except hand to hand; and barley for barley was *riba* except hand to hand; and salt for salt was *riba* except hand to hand."²

(For further discussion on this subject see Chapter on Interest and *Zakat*, in the third volume).

(k) **Sale Al-Gharar (بيع الغرر)**: Any sale made by deceiving

1. *Bukhari*, op. cit., P. 474, No. 1972-1973, and *Muatta*, op. cit. P. 555-556.

2. *Muatta*, op. cit. P. 553-554; and *Bukhari*, op. cit., P. 481-82, No. 2009-2014.

the opposite party comes within the meaning of *Gharar*. The Holy Prophet forbade all forms of transactions which contained an element of deceit or misrepresentation as reported by *Saeed Ibn Musaiyeb*.¹

(1) **Misrat (مصراة)**: *Misrat* is that animal which is not milked and its milk is left in the udder. Many people when wanting to sell some milch animal, left it unmilked for a number of days to deceive the buyer. This was a device by which the buyer of a milch animal was deceived and induced to pay a higher price. This was also prohibited by the Holy Prophet as reported by *Abu Hurairah* in the following words:²

The Holy Prophet said that "you should not leave the camels and goats unmilked, and whoever bought them after (they had been so left), he had the option, if he pleased, to return the animal to the owner."

(2) **Najsh (نحش)**: It simply means raising the price of an article of merchandise, not from a desire to purchase it, but in order that some one might hear that and raise the price in the same manner; or outbidding in a sale in order that some one else might fall in the trap, the bidder himself not wanting the thing; or praising an article of merchandise simply to deceive another person. All these practices were forbidden by the Holy Prophet.³

Abu Hurairah and *Ibn Umar* reported that "the Holy Prophet asked people not to resort to *Najsh*."

(3) **Sale by Oath**: It was a common practice in those days for the sellers to sell their articles (at higher prices) by taking oaths about the superior quality of their goods. The Holy Prophet forbade this practice of selling goods. It is reported by *Abu Hurairah* that the Holy Prophet said "the taking of oaths makes the commodities sell, but it obliterates the blessing (therein)."⁴

1. *Muatta*, op. cit. P. 571.

2. *Bukhari*, op. cit., P. 477, No. 1987.

3. *Ibid.*, P. 476, No. 1979.

4. *Ibid.*, op. cit. P. 464, Nos. 1927-1928.

According to *Abdullah Ibn Abi Aufa*, a man brought some goods for sale in the market and took an oath that he was getting so much price for it though he was not getting that price. He said this merely to trap some one to buy his goods. On this occasion the following verse of the Holy *Quran* was revealed :

“Those who take a small price for the covenant of God and their own oaths — they have no portion in the Hereafter.”

(3 : 76)

This is in fact a warning to those who sell their goods by false pretences and deceive people by their oaths.

(4) *Adulteration* : The Holy Prophet forbade adulteration of commodities of sale as reported by *Imam Bukhari*.

(1) *Hoarding* (احتكار) : This is to withhold cereals or other articles of use in order to raise their prices artificially. It was practised by the merchants of *Madina* to raise the prices of commodities of daily use in order to make huge profits. This practice was forbidden by the Prophet.

Ma'mar reported that...the Messenger of God said that : “Whoever withholds (cereals or other articles of use to make them scarce and dear), is a sinner.” The Holy Prophet also forbade hoarding of cereals, and described the mentality of a hoarder in these words : “He is a very bad man, who is grieved at low prices and is pleased at high prices.”¹

Umar, the second Caliph, declared hoarding illegal and unlawful and stopped the merchants from hoarding during his Caliphate. And *Imam Malik* reported that *Umar* ordered that no one should hoard in their market. According to *Ibn Majah*, *Umar* said, “One who brings grain in our city will be blessed with (abundance of) wealth and one who hoards will be cursed. If any one withholds grain (or other articles of use) while men of God (i.e. the people) need it, the ruler can forcibly sell his grain (or other articles of use)”.²

Othman, the third Caliph, also forbade hoarding during his

1. *Bukhari*, op. cit., P. 474, 479 ; and *Muatta*, op. cit., P. 563.

2. *Muatta*, op. cit., P. 563-564.

Caliphate.¹

Most of the jurists, especially *Imam Abu Hanifa*, confined this prohibitory order to hoarding of cereals etc., but according to *Imam Yusuf*, every thing, withholding of which is harmful to people, comes within the meaning of hoarding, even if it be gold, silver or cloth.²

Thus it may be said that all those transactions, in which there is likelihood of gambling, lottery, *riba*, fraud, or misrepresentation, or cheating, are forbidden in *Islam*. In fact all commercial dealings, which are similar to gambling or have element of *riba* and are likely to cause friction in society, are unlawful in a *Muslim* society. “Perfect honesty is thus enjoined in all business transactions. The seller is required to be just in weighing, generous in dealing and giving respite even to those in easy circumstances and those in straitened circumstances. If there is a defect in the thing sold, it must be made manifest to the purchaser. Special directions are given as to the sale of cereal, because they are the prime need of every man, so much so that happy news is given to the truthful and honest merchant, who works for the benefit of humanity that he will find a place with those righteous servants of God whose lives are devoted to the benefit of humanity”.

(m) *Monopoly* (اجاره) : A Monopoly is said to exist when the sole control of the supply of any commodity or service is in the hands of one person or a group of persons. The monopolist controls the supply of the commodity or service and fixes its price at a level most profitable to him, but not necessarily beneficial to the community.

Islam does not permit the formation or establishment of private monopolies which are likely to be harmful to society. The Holy Prophet forbade private ownership or private control of things which were useful to the whole community.

According to *Ibn Abbas* the Holy Prophet said : “Grazing

1. *Muatta*, op. cit., P. 563-564.

2. *Hidaya*, Vol. IV, *Kitab-al-Karahia*, Vol. III, *Kitab-al-Boyu*, quoted by Dr. Yusuf ud Din, op. cit., P. 471-72.

land belongs to God and His Messenger and no one is permitted to keep it to himself".¹ There is another *hadith* from *Ibn Abbas* that the Holy Prophet said : "All *Muslims* jointly share three things i.e., water, grass and fire."²

Abyaz bin Hamal Marbi reported that the Holy Prophet took back the possession of salt mine from him when he found that it was useful for all *Muslims* for private ownership was not allowed in such things.³

In fact, the Holy Prophet never permitted any individual or group of individuals to exercise sole control of any thing which was considered useful to the community. The sale by *Al-Hadir-libad* (الحاضر لباد) and *Talqi Jalab* (تلقى جلب) were forbidden by the Holy Prophet on the same grounds that they were harmful to public interest. And the *Muslim* jurists are of the opinion that the state has the right to forbid the formation or the continuation of a monopoly which is harmful to the public.

(n) **Weights and Measures :** There were many defects in the prevalent Marketing Organization in Arabia during the time of the Holy Prophet. And he made every possible effort to improve the Marketing Organization and stop the fraudulent practices of the business men. All the deceitful practices in trade and other commercial dealings were declared illegal and all measures were taken to put an end to these activities in the market.

A very common evil in the market was defective weights and measures and all the mal-practices connected with it. *Islam* took necessary measures to standardise weights and measures in order to stop the deceitful practices of tradesmen. All measures which are being taken by the most advanced industrialised countries of the world in the 20th century in connection with standardisation of weights and measures were proposed by

1. *Bukhari*, op. cit., P. 530, No. 2186.

2. *Kitab-al-Kharaj*, op. cit., P. 327-328, and *Abu Daud*, quoted by *Mishkat*, Vol. I, op. cit., P. 487, No. 2855.

3. *Tirmizi*, *Ibn Majah*, quoted by *Mishkat*, Vol. I, op. cit., P. 487, No. 2854.

Islam 1300 years ago.

The Holy *Quran* advocates the use of standard weights and measures in these words :

"And give full measure and weight with equity." (6 : 152)

And in Sura 'Al-A'rāf' :

"Clear proof indeed has come to you from your Lord, so give full measure and weight and withhold not from the people the things that are their due. And do no mischief on the earth after it has been set in order." (7 : 85)

The words *ولا تبخسوا الناس اشيائهم* are very significant. It shows how wrong and sinful it is to defraud other people or deprive them of their rights. The Holy *Quran* regards such fraudulent practices equivalent to creating mischief (فساد) on the earth.

Prophet *Shuaib* warns his people of the consequences of such practices in these words :

"And give not short measure or weight : I see you in prosperity, but I fear for you the chastisement of an all-encompassing day."¹ (11 : 85)

The people of *Madain* were a commercial people, and their besetting sin was commercial selfishness and fraudulent dealings in weights and measures. Their prophet tells them that that is the surest way to cut short their prosperity, both in the material and the spiritual sense. When the Day of Judgement comes, it will search out their dealings through and through : "It will compass them all round," and they will not be able to escape then, however, much they may conceal their frauds in this world." Such practices are likely to ruin them in this world, but if, by chance, they escape punishment in this world, they will not escape it on the Day of Judgement.

The Holy Prophet took every possible step to stop these fraudulent practices and, instead, to popularise the use of standard weights and measures in the market.

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, Vol. I, op. cit., P. 537, Note 1583.

Miqdam bin Mehdi reports that the Holy Prophet told them to weigh their wheat for there was blessing for them in it.¹

The Holy Prophet attached so much importance to the use of proper weights and measures that he even blessed the weights and measures commonly known as *Mud* (مُد) and *Sa'a* (صَاع)²

It is reported by *Anas bin Malik* and *Abdullah bin Zaid* that the Holy Prophet prayed in these words: "O God! bless the measure of the people of *Madina*. In other words, he prayed that the weight and measure of the people of *Madina* be blessed."³

Ibn Abbas reports that the Holy Prophet said: "Who ever buys dates in advance (بيع سلم), he should fix the weight and measure and the date and the bargain."⁴

Ibn Umar reports that the Holy Prophet told them that measure of *Madina* was trustworthy and weight of *Mecca*.⁵

According to *Ibn Abbas*, the Holy Prophet told the people who were doing the work of weighing and measuring that they were incharge of two things which destroyed nations before them. In other words, the Holy Prophet warned them of the natural consequences of these fraudulent practices which destroyed previous nations.⁶

It is reported by *Jabar* that the Holy Prophet told him to separate different varieties of dates and to weigh them in order to distribute them among people.⁷

Othman reports that the Holy Prophet told him always to weigh and measure anything he bought or sold.⁸

1. *Bukhari*, Vol. I, Urdu Translation, op. cit., P. 473, No. 1965.

2. & 3. *Ibid.*, Vol. I, op. cit., P. 473-474, No. 1966 to 1967.

4. *Mishkat*, Urdu Translation, op. cit., Vol. I, P. 473, No. 2742.

5. & 6. *Mishkat*, op. cit., P. 473, No. 2747.

7. *Bukhari*, Vol. I, op. cit. P. 473, No. 1964.

8. *Ibid.*, op. cit., P. 473.

Chapter 7

DISTRIBUTION OF WEALTH

Meaning: In distribution of wealth, we will study the problem of how national dividend (i.e., wealth) is distributed among the various factors of production who have contributed towards it and the principles which determine the share of each of them? We will study how the share of each factor is determined and how it is distributed? Thus the division of the produced wealth (i.e., national dividend) among the various factors of production is called "distribution of wealth."

Importance: Distribution of wealth presents a very important and difficult problem for on its just and equitable solution depends the welfare and happiness of the whole community. The production of wealth is, no doubt, important and necessary, but much more important is the way in which wealth is distributed. If the producers are diligent and hard-working, they will increase the wealth of the country. But, if the distribution of wealth is not equitable, the major portion of this wealth will go into the pockets of a few capitalists, the vast majority of the people will be rendered poor, and an abundance of national wealth will not benefit them. Therefore, it may be said that the welfare and prosperity of the people depends not on production alone, but also on its proper distribution. Wealth may be produced in great abundance in any country, but, if its distribution is not based on right and just principles, the country cannot prosper.

Even in modern affluent societies, where wealth is found in abundance, but, owing to its mal-distribution, many of their citizens are poor. It is all due to the improper distribution of wealth that a section of the community, having been deprived of its rightful share, is full of grief and anger. Now the feelings of grief and anger are, quite naturally, taking them towards communism.

Principles of Distribution : The problem of the distribution of wealth is as difficult and delicate as it is important. At different times various economists, philosophers and politicians have tried to solve this problem but, in spite of their best efforts, have failed in their search for a perfect solution. Some of them have gone to this extreme and others to that extreme and none has come with the right answer, as a result, the problem has remained a challenge to thinkers right up to this day.

One school of thought holds the view that the individual should have complete liberty so that he may produce the maximum amount of wealth by utilising his inherent ability. It also recognises the unlimited right of the individual to own property and justifies the inequitable distribution of wealth. The other main school of thought maintains that individual liberty is a constant danger to the good of society, so individual liberty and his right to property should be abolished and all power be entrusted to society in order that it may maintain complete economic equality among the people.

Therefore on one side is capitalism which advocates unlimited freedom and right of private property in the field of production and inequality in the distribution of wealth ; at the other extreme is communism which favours the complete abolition of individual liberty and private property and at the same time wants economic equality among people. In other words, capitalism lays stress on the production and communism on the distribution of wealth regardless of its effects on society.

Between these two extremes stands the economic conception of Islam. It adopts a moderate path which can help in the establishment of a just and equitable system. It gives neither

unlimited liberty and unlimited right of private property to the individual in the field of production nor does it bind him to an artificial system of economic equality under which he may not earn and own wealth with freedom. The guiding principle of this system is that there should be more and more production and distribution of wealth so that the increased circulation of wealth might lead to its equitable division among the different sections of the community and not to its concentration in fewer hands.

The Holy *Quran* has explained the golden rule of Islam in Sura 'Al-Hashr' in these words :

"Whatever God restored to His Messenger from the people of the towns, it is for God and for the Messenger — In order that it may not (merely) make a circuit between the wealthy among you." (59 : 7)

This verse states the principle that governs the distribution of wealth in the *Islamic* system of life : that wealth should be distributed among all the sections of the community and that it should "not become a commodity between the rich among them."

The Holy *Quran* has prescribed certain measures to achieve the above objective of equitable distribution of wealth in the Community. It has prohibited interest in all its forms and has introduced the laws of inheritance, which limit the power of the owner of property to make a will and distribute all his property among near relatives after his death. The purpose of these regulations is to stop the concentration of wealth in few hands. Then positive steps are taken to spread out wealth among the people through the compulsory levy of *Zakat*, system of *Anfaq* and the appropriation of a share (in the form of a grant) for the poor and destitute from the revenues of the state.

These and other similar measures have been recommended by the Holy *Quran* to discourage the concentration and encourage the distribution of wealth among the people, and, at the same time, by granting the right of property, it has provided a very strong impetus to the individual to make the most of his inherent abilities.

The legal measures are adopted to achieve the minimum conditions of a fair distribution of wealth in the community, while, to strengthen and stabilise it, greater stress is laid on the moral education and training of the people. The wealthy ones are advised to spend (cautiously on themselves and on others who stand in need) and not to be niggardly, while the poor are told to be content and not to envy those who possess more wealth. Thus by advising all the sections of the community to do their duty and be content with which God has given them, the Holy *Quran* has saved it from internal friction and disintegration.

Thus the greatest service *Islam* has done to the humanity is that it has, once for all, shattered the locked safes of the capitalists and brought their hoarded wealth into circulation. The two novel but very effective measures, i.e., *Sadaqat Wajibah* (صدقات واجبه) and *Sadaqat Nafilah* (صدقات نافله) have helped in achieving its objective without interfering with individual liberty and the right to property. Each individual performs his duty, obligatory as well as optional, freely, honestly and enthusiastically merely to seek the pleasure of God.

The Holy *Quran* has emphasised again and again upon the *Muslims* that they should not confine their wealth and earnings to themselves alone but, after satisfying their moderate needs, should fulfil their duties to their relatives, neighbours, and other needy persons in the community. The men of means are specially to look after the interests of the needy and the poor.

The high ideals of social service are not left to mere moral teachings but are organised and enforced by the state. Moral teaching and legal measures are, in fact, complementary to each other in an *Islamic* society. Thus moral education, social pressure and restrictions together help to maintain a healthy and prosperous society, free from the evils of concentration of wealth, as under capitalism and suppression of individual liberty and the right to property as under communism.

The legal measures are of two kinds (a) Positive measures which are adopted to check the concentration of wealth and to

assist in spreading it out in the community, e.g., *Zakat* and Law of Inheritance. The purpose of these measures is to fulfil the minimum of social rights which the common good of society demands. In other words, these are meant to establish and maintain social justice in the community. (b) Prohibitive measures are adopted to check the growth of unhealthy and evil practices in business. These are meant to check such practices in business which are likely to discourage or destroy healthy business in society, such as, interest, gambling, speculation, hoarding, black-marketing, profiteering, wasteful expenditure on luxuries like drinking, dancing etc., private monopolies in public utility works, immoral and deceitful activities and earnings etc.

It may be pointed out that the legal measures occupy only a subsidiary position in the economic system of *Islam*. They merely assist in checking and removing economic inequalities in society. Positive measures help in the equitable distribution of wealth, while the prohibitive measures check the growth of evil practices in the economic system. Thus the legal measures serve only as a fence to the healthy growth of the economic system of *Islam*. They are adopted to protect the system from the unlawful practices of evil-minded people in the community. They do not make people just or equitable but are mere safeguards against the evil designs of corrupt individuals. It is, in fact, the moral principles of *Islam* which assist in establishing and maintaining a just and equitable economic system in society.

In order to achieve the ideal of economic justice in society, *Islam* presents a very high ideal to the individual so that he may not fall to the low level of "economic animal", where his living is to eat; where stomach is the beginning and the end of all economic activity; but should feel that his eating is for living but living is for much nobler ideals.¹

Islam develops such a spirit among its followers that they regard economic assistance to others (merely seeking the pleasure of God) as the real and eternal saving. They seek the pleasure

1. *Muashi Na-Hamwarian*, op. cit., by Naeem Siddiqui, P. 88.

of God in the service to humanity. And the best service one can render to humanity is to lift up its down-trodden and poor members from the degradation of hunger and starvation.

Thus it changes the entire outlook and attitude of people with regard to money and its uses. They consider it their duty to spend their wealth upon others and then feel grateful to God that He has given them this opportunity to serve other members of the community. Spirit of social justice permeates the entire community and develops among its members the noble qualities of affection, generosity, cooperation, so much so that they begin to understand and fulfil, freely and willingly, their moral obligations to society which no law can enforce upon them.

The Holy *Quran* has explained the ideal of life for the *Muslims* in these words :

"You are the best nation raised up for men ; you enjoin good and forbid evil and you believe in God." (3 : 110)

It may be remembered that the "excellence of the *Muslim* people lies in their enjoining good and forbidding evil and in their great faith in God."¹ This ideal of social service infuses such a spirit in each individual *Muslim* that he spends greater and greater of his time, wealth and resources in the welfare and betterment of humanity. He wastes no time or wealth in the luxuries or idle pleasures of this world. He works hard for his living in order that he may be able to meet his needs and, if possible, needs of other members of the community.²

Obviously, economic inequalities cannot last long in a society in which ideal of social and economic justice pervades in every sphere of human life. A society in which evil practices of gambling, speculation, black-marketing, profiteering are forbidden ; immoral activities like dancing, drinking, etc. are unlawful ; in which people neither indulge in luxuries nor do they waste their money on unnecessary wants but confine themselves to the satisfaction of their own and their family's needs.

1. *The Translation of Holy Quran*, M. Ali, P. 161.

2. *Muashi Na Hamwarian*, Naeem Siddiqui, op. cit., P. 89.

In such a society economic inequalities do not grow but gradually die out and give place to social justice and economic prosperity for all.

Legal and Moral Measures : In order to achieve its objective of just and equitable distribution of wealth in the community, *Islam* prescribes the following measures :

(A) Legal Measures :

(I) Positive ;

(II) Prohibitive ;

(B) Optional Measures :

(I) Optional Charity (صدقات نافله)

(II) Charity of Surplus (انفاق العفو)

(A) LEGAL MEASURES

(I) Positive Measures : We will first discuss the positive measures which help in spreading out wealth in the community :

1. **Law of Inheritance :** The Law of Inheritance plays a significant role in lessening the inequalities in the division of inheritance in the community. Even notable economists, like Dr. Keynes, Taussig and Irving Fisher agree that unequal inheritance is an important cause of inequality in society. According to Taussig, inheritance has very great effects in the community. It widens the everlasting gulf between the rich and the poor.¹ It is therefore necessary to improve laws of inheritance in such a way as to achieve equity and justice in the distribution of wealth in society.

The *Muslim* law of inheritance is a very powerful and effective measure both in checking accumulation of wealth in fewer hands and in spreading it out among the larger section of the community. Its usefulness and importance has been recognised even by the great opponents of *Islam*. Dr. Ramsey in his book writes that law of inheritance of *Islam* is based on more reasonable and perfect principle that is known to the civilized world.²

According to the *Muslim* law of inheritance, the property of

1. *Principles*, Vol. II, P. 246.

2. *Mohammaden Law*, P. 1.

the deceased is divided among many of his near relatives, including his sons, daughters, sisters, brothers etc. If a man (or a woman) dies without any near relative, his (or her) property is taken over by the state in order that all the citizens may equally benefit from it. The purpose of the law of inheritance is, in fact, to widen the distribution of wealth and to check its accumulation at any point. The law is stated in Sura 'Al-Nisa' in these words :

Share of Men and Women : The shares of sons and daughters are as follows :

"For men is a share of what the parents and the near relatives leave, and for women a share of what the parents and the near relatives leave, whether it be little or much.....and appointed share." (4 : 7-12)

The principle laid down in this verse is the basis of the Muslim law of inheritance. Children and near relatives, or failing these, distant relatives, whether males or females, are lawful heirs, and the whole of the property does not go to the eldest son. Whatever objection there may be to this principle on the ground of division of property into parcels, there is not the least doubt that the rule is in accordance with the broad principles of democracy and brotherhood of man which Islam seeks to establish.

Share of Sons and Daughters : The shares of sons and daughters of the deceased are fixed in these words :

"God enjoins you concerning your children's (inheritance) : for the male is the equal of the portion of two females ; but if there be more than two females, two-thirds of what the deceased leaves is theirs ; and if there be one, for her (share) is the half." (4 : 11)

By females are here meant the female children. When the daughters are the sole heirs, they are entitled to a share of two-thirds. The share of two-thirds to which more than two daughters are entitled remains the same even when the daughters are only two ; a single daughter being entitled to one-half of the total property of the deceased.

Share of Parents : Parents of the deceased, if alone, are also entitled to a share in the property. Their share is described in the following words :

"And as for his parents, for each of them is the sixth of what he leaves, if he has a child ; but if he has no child and (only) his two parents inherit him, for his mother is the third ; but if he has brothers, for his mother is the sixth, after (payment of) a bequest he may have bequeathed or a debt. Your parents and your children, you know not which of them is the nearer to you in benefit. This is an ordinance from God. God is surely ever Knowing, Wise ." (4 : 11)

This is the second case, and it deals with the question of inheritance when the deceased is survived by parents. In this case the parents first take their respective shares, and the residue goes to the children, if there are any, failing which, the share of the parents is increased. But in case the deceased has brothers, the mother receives the same share as she would have received if the deceased had children.

It may be noted that in all cases the payment of bequests and debts takes precedence over the shares of the heirs.

Share of Wife : The wife gets a share from the property of her deceased husband, which is stated in these words :

"And to your wives belongs the fourth of what you leave if you have no child, but if you have a child, their share is the eighth of what you leave after (payment of) a bequest you may have bequeathed or a debt." (4 : 12)

This is the third case, and it deals with the question when the deceased leaves a wife with or without children. The wife takes her share first, as in the case of parents, and the residue goes to the children.

Share of Husband : Husband is also entitled to a share in the property of his deceased wife. This is stated in these words :

"And yours is half of what your wives leave if they have no child ; but if they have a child, your share is a fourth of what they leave after (payment of) any bequest they may have be-

queathed or a debt." (4 : 12)

This is the fourth case, and it deals with the question when the wife leaves a husband with or without children. The husband takes his share first, as in the case of parents and wives, and the residue goes to the children.

Kalala's Inheritance : "*Kalala*" is one who has neither parents nor children. But as a matter of fact "*Kalala*" bears two meanings. It means the person who has no children whether he has parents or not, and it also means the person who has neither parents nor children. The shares of those who inherit a "*Kalala*" are determined in this way.

Kalala's Sister : If *Kalala* has one or two sisters, their share will be determined in the following way :

"If a man dies (and) he has no son and he has a sister hers is half of what he leaves, and he shall be her heir if she has no son. But if there be two (sisters), they shall have two-thirds of what he leaves." (4 : 176)

This is the first case of *Kalala's* inheritance. If *Kalala* leaves behind only one sister, she will inherit half the property but if there are two sisters, they will inherit two-thirds of the property of the deceased.

Kalala's Brother : If *Kalala* has a brother or a sister, each will get sixth of the property left by the deceased as stated in the following verse of the Holy Quran :

"And if a man or a woman, having no children, leaves property to be inherited and he (or she) has a brother or a sister, then for each of them is the sixth ; but if there are more than that, they shall be sharers in the third after (payment of) a bequest that may have been bequeathed or a debt not injuring others. This is a commandment from God and God is All-Knowing, Most Forbearing." (4 : 12)

This is the second case of *Kalala's* inheritance. A brother or a sister of the deceased will each receive one sixth but if there are more than two persons to share the property, then they will all share in one-third of the property of the deceased,

It may be pointed out that the use of the words "not injuring others" in the above verse is very significant. As in the case of those who have no children, there is much likelihood of their burdening the estate with unnecessary debts, or even admitting debts that have not really been contracted, and of making bequests that would leave nothing for legal heirs. The words "not injuring others" are added, to make it clear that debts and bequest in such a case shall not prejudice the rights of the legal heirs.

It may also be noted that the debts of the deceased will have priority over other claims. His debts will be paid off first, then his bequests and legacies, if any, will be met upto one-third of the inheritance. After meeting these claims, his property will be divided among the legal heirs as enumerated above.

Near Relatives : According to the *Muslim* laws of inheritance, share of each inheritor is determined by his relation to the deceased. The nearer the relation to the deceased, the greater the share in the inheritance. A man (or a woman), who is closely related to the deceased, will receive greater share of the property than those who are not so closely related.

Accordingly, the *Hanafi* jurists have divided the inheritors into three groups :

Legal Inheritors (ذوى الفروض) : These are relatives whose shares have been fixed by the Holy Quran as explained above.

Relatives from father's side (عصبات). They are relatives of the second degree (or group) whose shares have not been determined by the Holy Quran. What is left after paying the respective shares to the legal inheritors, is distributed among the relatives. And if there are no relatives of the first degree (or group), then the whole property is distributed among these relatives.

Relatives of the Third Degree (ذوى الارحام) : They are relatives of the third degree who inherit the property of the deceased when the relatives of the first two degrees are not alive. Examples of such relatives are son of the daughter, son of the

sister, mother of the mother etc.

The most important beneficiaries of the *Muslim* law of inheritance are summarised as follows :—

- (a) The males inherit as well as the females.
- (b) The husband receives a share of his wife's property and so does the wife.
- (c) At least eight near relatives of the deceased inherit his property under all circumstances.
- (d) Then along with eight beneficiaries of the first degree, there are other beneficiaries of the second and third degrees.
- (e) Furthermore, every person has a right to bequeath one-third of his property either to those of his relatives or friends or neighbours or servants who have no legal share in his property or to meet the needs of the people or for public utility works.
- (f) Orphans and indigent people, who live in that village or town, should also be given something from the property of the deceased.
- (g) Finally, the property of the people, who leave no descendant or ascendants, is taken over by the state for the common good of society. This is in compliance with the established practice from the time of the Holy Prophet. According to *Miqdam*, the Holy Prophet said : "I am nearer to every believer than his ownself ; so whosoever leaves behind a debt or children to support, it shall be our charge ; and whoever leaves property, it is for his heirs ; and I am the heir of the person who has no heir—I inherit his property and liberate his captivity."¹

According to this saying of the Holy Prophet, the state inherits the property of a person who leaves no heir and takes the place of the Holy Prophet.

The law of inheritance seems to have far reaching effects. It does not leave wealth to accumulate in the hands of a few capitalists but helps in increasing its circulation (as well as dis-

tribution) among the largest number of people. This law, in fact, uproots the very basis of capitalist system in a few generations by distributing the wealth of the deceased among dozens and scores of his near and distant relatives and poor neighbours.

2. *Zakat* (صدقة واجبة) : *Zakat* is the second legal measure adopted by the state to spread out wealth among the people. It is a compulsory levy which is collected from the rich *Muslims* and spent on the poor. In the terminology of the jurists, *Zakat* is a financial contribution which is incumbent on every *Muslim* who possesses wealth above a certain limit. It is an organised charity which is collected and disbursed through the state.

It is, in fact, a religious duty upon the wealthy in the community and is considered in importance second only to the daily prayers. The Holy *Quran* has laid great emphasis on its payment. When the *Muslims* are asked to say their prayers regularly, they are also enjoined to pay *Zakat*. In the 9th *Sura* the *Muslims* are told to keep up prayer and pay *Zakat* in these words :

"Only he can maintain the mosques of God who believes in God and the Last Day, and keeps up prayer and pays *Zakat*." (9 : 18)

Then in *Sura 'Al-Baqara'*, it is said :

"And keep up prayer and pay *Zakat*." (2 : 43)

Again in *Sura 'Al-Baqara'* the two primary duties of the true believers are described in these words :

"And keep up prayer and pay *Zakat*." (2 : 3)

The two primary duties of a true *Muslim* described in the words, "who are steadfast in prayer and give *Zakat*," are repeated again and again in the Holy *Quran*.

The main purpose of *Zakat* is to meet the needs of the poor and the needy so that there is not left a single destitute in the country. And as it is collected from the rich and spent on the poor, it helps to spread out wealth in the community. Those who possess wealth more than their needs contribute towards the National *Zakat* Fund, while others who have less than their needs, receive assistance from it. (For details see chapter on

1. *Bukhari*, Urdu edition, Vol. op. cit., P. 536-537, No. 2212-2213 reported by *Abu Huraira* ; and *Abu Daud*, quoted by *Mishkat*, Vol. I, op. cit., P. 493-494, No. 2904 ; reported by *Miqdam*.

Zakat and Interest in the third volume).

(II) Prohibitive Measures :

After discussing the positive measures, we will now explain the prohibitive measures which are adopted by the state to attain its objective of social justice in the community.

1. Prohibition of Interest : The Holy Quran has condemned and forbidden interest in the following words :

"O you who believe, devour not interest doubling and redoubling, and keep your duty to God ; that you may be successful." (3 : 103)

Then in Sura 'Al-Baqara' in these words :

"Those who swallow interest cannot rise except as he arises whom the devil prostrates by his touch. That is because they say, trade is just like interest. And God has allowed trading and forbidden interest. To whomsoever then the admonition has come from his Lord, and he desists he shall have what has already passed. And his affair is in the hands of God. And whoever returns (to it)—these are the companions of the fire : therein they will abide." (2 : 275-276)

And the final injunction in the next verse :

"O you who believe, keep your duty to God and relinquish what remains (due) from interest, if you are believers." "But if you do (it) not, then be appraised of war from God and His Messenger ; and if repent, then you shall have your capital. Wrong not, and you shall not be wronged." (2 : 278)

(For details on the subject see chapter on Interest and Zakat).

2. Prohibition of Hoarding of Wealth : People who hoard their accumulated wealth are the real enemies of society. They in fact squeeze the veins of industry and thereby check the progress and development of the country. Their wealth could be utilized to produce more wealth for the benefit of the community as well as the capitalists themselves.

In order to remedy the evils that flow from the hoarding of wealth, Islam has forbidden its accumulation in this manner. The Holy Quran condemns the hoarding of wealth in these words :

"And let not those who hoard up that which God hath bestowed upon them of His bounty think that it is better for them. Nay, it is worse for them. That which they hoard will soon be tied to their necks, like a twisted collar, on the Day of Judgement." (3 : 180)

Then in Sura 'Al-Tauba', the hoarders of wealth are warned in these words :

"They who hoard up gold and silver and spend it not in the way of God, unto them give tidings of a painful doom, on the Day when it will be heated in the fire of Hell, and their foreheads and their flanks and their backs will be branded therewith (and it will be said unto them) : "Here is the (treasure) which ye hoarded for yourselves. Now taste ye the (treasure) ye hoarded." (9 : 34-35)

People who pay Zakat and are content that they have done their duty, should study carefully these verses of the Holy Quran and should realise that this does not absolve them of the other obligations which they owe to the community.

There is a warning in the above verse to those who hoard gold and silver instead of spending it. They are told not to hoard or bury or amass wealth for its own sake but to use it freely for good, whether for themselves or for the community.

"A very striking metaphor is here used to figure for the penalty to be suffered by those who misuse wealth, for such misuse is as much a spiritual sin as any other kind of disobedience to God's Will. Such misused wealth will itself become evidence against us. It will be as if the gold and silver will be heated to add to the heat of Hell-fire ; that it will brand our foreheads as reflecting on our intelligence in thinking that wealth was a good thing in itself instead of a mere means of doing good ; it will brand our flanks (the seat of greed), as showing that the greed produced no real satisfaction ; and it will brand our backs the source of our stability and strength, as showing that wealth which might have added to our stability and strength, destroys, by its misuse, our stability and strength."¹

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, P. 449-450.

Again the hoarders of wealth are warned in these words :

"Woe unto every slandering traducer, who has gathered wealth and arranged it. He thinketh that his wealth will render him immortal. Nay, but verily he will be flung to the consuming one (Hell)." (104 : 1-4)

And in Sura 'Al-Lail' in the following words :

"But as for him who hoardeth and deemeth himself independent, and disbelieveth in goodness ; surely We will ease his way unto adversity. His riches will not save him when he perisheth." (92 : 8-11)

"The evil are distinguished here by three signs :

- (i) selfish greed and denial of other's rights ;
- (ii) arrogance and self-sufficiency ; and
- (iii) knowingly dishonouring Trust out of spite, or seeing ugliness where there is beauty.

Such men's downward progress gathers momentum as they go, and their end can be nothing but misery. Where will be their boasted wealth and possessions, or their self-confidence ? And then wealth amassed in this world will be of no use at the Day of Judgement, nor will the material advantages of his life bear fruit by themselves in the spiritual world. What will count is a life of truth and righteousness, and of goodness to all the creatures of God."¹

A hoarder of wealth will not only lose the spiritual bliss in the Hereafter but will also be deprived of the benefits of his wealth in this world as it will not earn profits. Besides, he will also have a share in the misery and suffering of the community which decays and perishes for lack of adequate funds to maintain itself.

3. Wasteful Expenditure : Islam has prohibited all wasteful and unnecessary expenditure on superfluities which encourage rich people to indulge in luxuries. This unhealthy practice is condemned in the following words :

1. *Ibid.*, op. cit., P. 1747, Note No. 6165.

"But squander not (your wealth) wastefully. Surely the squanderers are the devil's brothers. And the devil is ever ungrateful to his Lord." (17 : 26)

In this verse the squanderers are called the devil's brothers for wasting away their wealth which God has given them out of His grace.

And again in Sura 'Al-An'ām' :

"Eat of its fruit when it bears fruit—and be not prodigal, Surely He loves not the prodigals." (6 : 141)

So all those people who misuse or squander God's gifts are deprived of His Grace and blessing and are warned not to waste their wealth. And the Muslim state is entitled to take over under its control and management all properties whose owners have been squandering their wealth.

Islam has forbidden all methods of spending which cause moral or social injury. "You cannot fritter away your wealth in gambling ; you cannot drink wine ; you cannot commit adultery ; and you cannot waste your money in music and wear silken dresses ; you are prohibited (except in the case of women) from using golden ornaments and jewels ; and you cannot decorate your house with pictures and statues. In short, Islam has closed all those outlets through which the greater portion of a man's wealth is spent on his luxuries and indulgence."¹

Islam has placed these restrictions on the expenditure of people in order that they may lead an average life of comfort and happiness without being wasteful. Now we will discuss the items of wasteful expenditure one by one.

(a) *Alcoholic Drinks and Gambling :* Alcoholic drinks and all forms of gambling are prohibited in Islam. Wine and gambling are the root cause of many evils in this world. Among other evils, they encourage extravagance, wastefulness and luxurious living among the people. The prohibitory commandment is stated in these words :

1. Abul Ala Maudoodi, *Economic Problem of Man and its Islamic Solution*, op. cit., P. 50.

"O ye who believe ! intoxicants and gambling — are only an infamy of satan's handiwork. Leave it aside in order that ye may prosper. The devil desires only to create enmity and hatred among you by means of intoxicants and gambling, and keep you back from remembrance of God and from prayer. Will you then keep away ? (5 : 93-94)

Wine and gambling are both declared in the above verses as causing "enmity and hatred among you," and a society the members of which are imbued with feelings of hatred and enmity towards each other could never prosper." There is a constant rivalry and friction between the opposing groups in society which ultimately lead to its destruction.

In view of the evils of these popular vices, the Holy Prophet also prohibited trading in all those goods which were directly or indirectly connected with wine and gambling.

According to *Aishah*, "when the last verses of Sura 'Al-Baqara', prohibiting wine, were revealed, the Holy Prophet prohibited even trading in wine. And *Jabir* is reported to have said that he heard the Messenger of God saying while he was at Mecca that "God and his Prophet have forbidden trading in wine."¹

(b) *Usage of gold and silver vessels* : Ornaments of gold and silver are forbidden to men while the use of vessel of gold and silver is forbidden to all the *Muslims* (men as well as women). There is no doubt that usage of vessels of precious metals reflects passion for extreme luxury which is not permitted in *Islam*. Besides, this is very likely to stimulate the growth of unhealthy and harmful industries and, at the same time discourage the growth of healthy and beneficial industries in the country. This uneconomic use of these metals would also bury a large portion of the country's wealth and deprive her of its productive uses. It was therefore necessary to stop the flow of these metals into uneconomic and unproductive channels.

According to *Um Salama*, the Holy Prophet said, "Whoever

1. *Bukhari*, op. cit., Vol. III, P. 113, No. 392 and P. 156, No. 591.

eats or drinks in vessels of gold or silver, drinks fire in his stomach."¹

Hudhaifah is reported to have said that he heard the Holy Prophet saying, "do not drink in vessels of gold and silver, and do not eat in bowls made of these metals."¹

Barā ibn Azib reported that "the Holy Prophet has forbidden us (men) seven things (which include) golden ring for men and vessels of gold and silver (for both men and women)."¹

(c) *Use of Silk and Silken Dresses* : The use of silk and silken dresses is forbidden to men. It is expressly stated in the sayings of the Holy Prophet.

Hudhaifah is reported to have heard the Holy Prophet say "do not wear silk or silk brocade."¹

Barā ibn Azib said that "the Holy Prophet had forbidden men seven things (which include the following)."¹

(i) Silk ; and (ii) Silk brocade.

(d) *Indulgence in Amusement* : Islam has also forbidden over-indulgence in amusements and other recreations similar to gambling which are likely to breed evils (and immorality) in society. It forbids all types of dancing and singing which encourage wasteful expenditure and abet immorality.

Abu Musa reported that the Holy Prophet said that "Whoever played chaucer, he disobeyed God and His Prophet".

4. *Unhealthy Business* : All types of unhealthy business which are likely to create and increase inequalities of wealth in the community are prohibited in *Islam*. The most important and most harmful forms of business are speculation, hoarding, black-marketing, profiteering and private monopoly in goods or services which are essential and beneficial to the people.

(i) *Speculation* : This is a form of commercial gambling which is carried on without the exchange of money or goods and is responsible for artificially increasing or decreasing the prices of stocks in the national and international markets. There

1. *Bukhari*, op. cit. Vol. III, P. 113, No. 392 and P. 156, No. 591.

could be greater stability in these markets without this unnecessary and evil practice. It is an unhealthy form of business which encourages rich idlers to acquire profits without labour and without payment of any money.

Speculation was in vogue in different forms in old days but was declared unlawful by the Holy Prophet. Some forms of speculation which were forbidden by the Holy Prophet are as follows :

According to *Jabir*, "the Holy Prophet prohibited the selling of fruits before they were ripe."¹

Anas is reported to have said that, "the Holy Prophet disallowed the sale of unripe fruits and remarked that if God were to destroy the fruits, then what for would some one of you take the money of your brother."¹

Anas reported that "the Holy Prophet forbade *Munabazah* which was the practice of selling cloth by throwing it on to the buyer before he had the time to examine it or look at it ; he also forbade *Mulamasah* which was the practice of selling cloth by mere touching it before the buyer had even a look at it ; he also forbade *Muhaqilah* which was the practice of selling corn in ears in exchange for cleancorn ; he even forbade *Mukhadharah* which was selling of green or unripe things ; and he forbade *Muzabanah*, which was selling of raw dates in exchange for fresh ones and unripe fruits while on the trees"² (for details see chapter on Exchange).

Ibn Umar and *Ibn Abbas* reported that the Holy Prophet said, "whoever buys cereals, he shall not sell them until he has obtained their possession."²

In fact all such dealings in which there is likelihood of a fraud or mischief or where buyer has not seen or examined the goods before buying ; or where the goods are bought and sold verbally or through correspondence, without the exchange or possession of actual goods, are forbidden. The purpose of *Islamic* law concerning commercial business is to encourage and

1. *Bukhari*, op. cit., P. 484, Nos. 2025-2027.

2. *Ibid.*, P. 474, No. 1969-1973 and P. 476, No. 1983.

popularise healthy and profitable forms of business without any fraud or dispute among the parties. And the best way to encourage good and lawful business in a community is to disallow such practices which are not completely fair and just to both the parties involved.

It is quite fair to both the buyer and the seller that they should have enough time to see and examine the goods and study the conditions of the contract, if there are any. It is also necessary that the goods sold should be in possession of the seller otherwise the deal would not be legal because then the existence of the goods sold becomes doubtful. Furthermore, in case of fruits or cereals, they should be either ripe or near the condition of ripening, for if they are unripe, the sale deal would be illegal and therefore null and void.

(ii) **Fraudulent Practices :** The Holy *Quran* has emphasised the importance of honest dealings and forbidden all mal-practices in these words :

1. "And give full measure and weight with equity." (6 : 152)

2. "Give full measure and be not of those who diminish. And weigh with a true balance. And wrong not men of their dues, and act not corruptly in the earth, making mischief." (7 : 85)

3. "Woe to the cheaters ! who, when they take the measure (of their dues) from men, take it fully, and when they measure out to others or weigh out for them, they give less than is due. Do they not think that they will be raised again, to a mighty day? — The Day when men will stand before the Lord of the worlds." (83 : 1-3)

In these verses of the Holy *Quran*, a clear warning is given to those who deceive in weighing and measuring. They cannot prosper for long with such mal-practices in this world and, in the world to come, they are reminded of grave consequences.

All commercial dealings which are likely to deceive either of the parties involved are also forbidden.

Similarly false, exaggerated or misleading statements or advertisements concerning business are also forbidden.

(iii) **Hoarding and Black-marketing** : All forms of hoarding and black-marketing are prohibited. In the days of the Holy Prophet, the traders or their agents used to meet the caravans outside the city (of *Madina*) and purchase all the stocks of corn. Thus, by monopolising all the corn stocks, they charged prices as they liked and thereby caused great inconvenience and hardship to the people. Such people who interfere with the price mechanism of the market are called hoarders. The Holy Prophet forbade such dealings.¹

According to *Abu Hurairah*, "the Holy Prophet forbade the people to meet the caravan (outside the city) which brought corn."¹

Abdullah Ibn Umar reported that "the Holy Prophet told the people not to go forward (outside the city) to purchase goods until they are brought into the market."¹

According to *Umar*, the Holy Prophet said, "whoever withholds cereals (and other things) that they may become scarce and dear, is a sinner."²

The Holy Prophet is reported to have said, "the hoarder is a very bad person for he is grieved at fall in prices and is happy at rise in prices."³

Thus the Holy Prophet explicitly prohibited the hoarding (as well as black-marketing) of corn or cereals (i.e., foodstuff or essential goods or services).

Practice of the Caliphs : *Umar*, the second Caliph, forbade hoarding in his time in the following words :

"No one should hoard in our market. Those who have capital more than their needs should not buy corn (or other

1. *Bukhari*, op. cit., P. 479.

2. *Ibn Majah*, *Darmi* quoted by *Mishkat*, Vol. I, op. cit., P. 474, No. 2751.

3. *Baihaqi*, *Razeen*, quoted by *Mishkat*, Vol. I, op. cit., P. 474, No. 2755.

things) that come into our country for hoarding purposes. And anyone who with great hardships brings corn (or other things) in winter or summer into our country, is a guest of *Umar* (i.e., the state) and may sell or keep it as God pleases."¹

Othman, the third Caliph, also forbade hoarding of cereals during his caliphate.¹

Most of the jurists have prohibited hoarding only in corn, wheat and other foodstuff but *Imam Abu Yusuf* includes all those things in hoarding, gold and silver included, stocking of which is harmful to society.

(B) OPTIONAL MEASURES

(I) Optional Charity (صدقات نافله) :

Moral Duties : In order to achieve its ideal of economic justice, *Islam* demands from all its followers to spend their wealth freely on the common good of society. This claim on the wealth of the *Muslims*, it emphasises, is not fully met by the payment of the obligatory levy of *Zakat*. True and real *Anfaq* (حق انفاق) is over and above *Zakat* and is a very strong obligation on the wealthy members of the Muslim community. Unless a *Muslim* fulfils this moral obligation due to society, he cannot be sure that he has won the pleasure of God. The Holy Prophet made it quite clear when he said :

"In one's wealth there is a due (of God and His men) besides *Zakat*."²

The significance of this *hadith* becomes clearer when we read the following explanation of *Ali*, the fourth Caliph :

"Allah has ordained that the rich are to pay out of their wealth to that extent which is sufficient for the needs of the poor ; so that if they do not find food or clothing or struggle (unsuccessfully for their living), it would be because the rich are not doing their duty, and Allah will take them to task on the Day of Judgement and will punish them."³

1. *Muatta*, *Imam Malik*, op. cit., P. 563-564.

2. *Naeem Siddiqui*, op. cit., P. 96.

3. *Mohalla*, Vol. VI, P. 158, quoted by *Shaikh Mahmud Ahmad*, *Economics of Islam*, 1964, P. 99.

Thus according to *Ali* if the wealthy keep back their hoarded wealth while some of the poor are hungry and naked and living in misery, then they must deserve the wrath of God.¹

According to *Ibn Umar*,² "if *Zakat* levy is insufficient to meet the needs of the poor, then it is the duty of the rich of every town to put the poor on their feet." And *Umar*, the second Caliph, is reported to have said in the last days of his caliphate that if he had known before what he knew then about the equalitarian spirit of *Islam*, he would have taken as many surpluses from the rich by force as would satisfy the basic needs of the have-nots."

And *Abu Dhar Ghifari* reported that³ the Holy Prophet, while he was sitting under the shade of the wall of *Kaaba*, said "they are the losers (هم الخسرون)." *Abu Dhar* enquired, "Who are they, O Messenger of God?" The Holy Prophet replied, "those who pile up heaps of wealth" and then (pointing in all directions with his hands, said,) they "don't spend like this and this."

This is the true significance of the words of the Holy Prophet that "there is due besides *Zakat*" and that the wealthy are not relieved of their duties after payment of *Zakat*."

"*Abu Dhar's* contention was that society must not become stratified into the rich and the poor and so long as the elementary needs of all citizens are not adequately met, keeping back of hoarded wealth by the rich is a kind of theft."⁴

"Centuries after the first *Muslim Sahabi*, *Abu Dhar*, we find *Ibn Hazm* taking up the question again quoting chapter and verse from the Holy Book, and the sayings of the illustrious companions and successors of the Prophet to prove his thesis that *Islam* wanted the abolition of poverty and indigence, and demanded spreading out of the national wealth. *Islam* allows private property but the right to it is not absolute. *Ibn Hazm's*

1. *A. Hakim*, op. cit., P. 194.
2. *Ibid.*, P. 193.
3. *Bukhari* and *Muslim*, quoted by *Mishkat*, op. cit., P. 323, No. 1763.
4. *A. Hakim*, op. cit., P. 193.

views are, in a way, an anticipation of the *BEVERIDGE PLAN* of fundamental material security for all citizens—He says on the authority of *Sha'bi*, *Mujahid* and *Ta'us* that all of them agree that society has a claim on the wealth of the rich, even after they have paid the *Zakat* tax."¹

"The *Quran* uses the word '*Haq*', the right of the poor; so that the wealthy man is asked to give is not charity but that which, as a matter of right, should come back to the poor who, as a matter of fact, by their labour are the creators of the national wealth. Many quotations are given by *Ibn Hazm* from the Holy Book in which the words the "right of the poor" are used instead of an equivalent word for charity."¹

"As to the prohibition of keeping surpluses while fellow citizens are in dire need, *Ibn Hazm* quotes another saying of the Prophet related by *Abu Said Khudri*: The Prophet said: "Whoever has an extra camel, let him give it to him who has it not and needs it; whoever has surplus food, let him give it to him who is without it." The Prophet went on talking about parting with surpluses of various kinds until we came to believe that we are being taught that no one has any right to any surplus."¹

"*Ibn Hazm* then proceeds to deal with the question of the power of the state exercised in spreading out of the national wealth. He first deals with the right of the needy individual against another who has a surplus. He says that if a person is dying of thirst or hunger and the person possessing water and food refuses to help him, the hungry or the thirsty man has a right to take it by force. Most jurists before *Ibn Hazm* had mentioned only extreme thirst as a justification for individual violence. He criticises them and says that if thirst justifies it, why not starvation or lack of covering which might prove equally fatal."¹

"*Abu Bakr*, the first Caliph, fought war to crush those who would not pay *Zakat* meant for the poor. *Ibn Hazm* thinks that it justifies violence against those who withhold surpluses while

1. *Abdul Hakim*, op. cit., P. 193.

poverty and misery still exist.”¹

It may be pointed out that this, in no way, justifies forcible expropriation of all capital and all lands of the individuals by the state as under communism. “Those who know the total pattern of *Islamic* life and are conversant with the basic principles of its ideology cannot be easily trapped by communist preaching. *Islam* allows private property and personal initiative and does not envisage a totalitarian state abrogating all rights to itself and leaving the individual at the mercy and in the callous servitude of an impersonal regimenting machine. Communism compels every one to subscribe to the same ideology; *Islam* does not. *Islam* is satisfied with the essentials of morality and social justice that should form a common basis between the conformists and the non-conformists alike. People are free to believe as they please and work as they please provided their work is not of an immoral or anti-social nature. People can earn wealth with honest efforts and enjoy its fruits, but the fundamental principle of *Islamic* economics as enunciated in the Holy Book is the circulation of national wealth in all classes.”² And this objective is achieved by the enforcement of its moral principles and legal measures as explained in this chapter.

(II) Charity of Surplus (انفاق العفو) :

The most important and most effective of the moral obligations on the *Muslims*, enjoined by the Holy *Quran* for spreading out the national wealth among the masses is the principle of *Anfaq al-Afw* (انفاق العفو). It requires of people to spend what they can spare out of their wealth merely for seeking the pleasure of God. The principle of *Anafq* is stated in *Sura 'Al-Baqara'* in these words :

“And they ask thee as to what they should spend. Say : what you can spare. Thus does God make clear to you the messages that you may ponder.” (2 : 219)

The word *al-Afw* (العفو) means that wealth which is over and above one's necessary expenses; what is left over after meeting

one's needs; what one can spare after meeting his family's needs. It therefore demands of people to spend all that they can spare over and above their lawful requirements for the common good of society. They are required to earn wealth by hard and honest means for the satisfaction of their wants and then to give away what is left over for meeting the needs of the poor and the needy in the community. In other words, the *Muslims* are expected to give bountifully out of their wealth and, until the needs of all the needy and the poor are satisfied, the state will have the right to ask for more for this purpose from the rich members of the community.

It is interesting to note that the principle of *Anfaq al-Afw* (انفاق العفو) accepts the right of property of the individual and advises him to spend what he can spare. It does not demand that he should forego his private right of ownership but in fact recognises his right to spend his wealth according to his needs. What is asked of him, legally and morally, is concerning the wealth that is left over after meeting his needs. *Islamic* conception is thus contrary to the conception of communism which does not recognise the right of private property of the individual.¹

Conception of *Anfaq* (انفاق) is very wide and is inclusive of all kinds of service to the community from the surplus wealth of the rich. How could the Holy Prophet tolerate that surplus wealth should be kept blocked and unused by the wealthy when he commanded his followers not to block surplus water from the fields for it would check the growth of the vegetables (and other crops).

The Holy *Quran* has in different ways emphasised the importance of giving away one's surplus wealth for the benefit of other people. The right of the poor and the needy in one's wealth is stressed in these words :

“And in their wealth there was a due share for the beggars and for the needy.” (51 : 19)

And again in *Sura 'Al-Ma'arij'* in the following words :

1. *Tarjuman Al-Quran*, May 1963, P, 51,

1. *Abdul Hakim*, op. cit., P. 193.

2. *Ibid.*, P. 195-196.

"And in whose wealth there is a known right for the beggar."
(70 : 24-25)

It may be noted that "the poor and the needy" are here spoken of as having a share in the wealth of the rich. The state is bound to take that share and make it over to the poor. But it is only a share, not the whole as the communists would have it.

The share out of the surplus wealth of the rich is an obligation of God and His men on them which they must fulfil by paying it back to the poor. A well known *hadith* of the Holy Prophet throws some light on this obligation of the rich in these words :

"The Holy Prophet is reported to have said, "God would enquire from His men on the Day of Judgement as to how they treated Him when He came to them? I was naked, you did not clothe me; I was hungry, you did not feed me etc. People amazingly would ask God, how could it be (for God to be hungry or naked)? He would reply that such and such of His men came to them destitute and the manner in which they treated them was in a sense treating Him."

This *hadith* makes it clear that the fulfilment of the needs of the poor is an obligation on the rich members of the community which they must not ignore under any circumstances. If, at any time, they fail to meet their obligation, the state will have the right to force them to meet the claims of the poor members of the community.

According to Abu Dhar; he was going along with the Holy Prophet at the time of the night prayer near *Hurrat* (a place), when they approached the mount *Uhad*. The Holy Prophet said :

*"O Abu Dhar! I don't like that I should have as much gold as the mount Uhad and one night (or three nights) should pass and something from it should be left with me but for the payment of a debt. I would generously distribute it among the people."*¹

1. Bukhari, quoted by Mishkat, op. cit., P. 322, No. 1757.

Abu Hurairah reported that the Holy Prophet said : "O son of Adam spend (in the way of God) and it will be spent on you." And Abdullah Ibn Umar reported that some one enquired from the Holy Prophet as to which of the deeds was the best in *Islam*? He replied, "your giving the meals (to the poor and the needy)."

It may be pointed out that feeding and clothing the poor and the needy does not mean that beggary and idleness should be encouraged in society. It simply means this that the invalids and the destitutes should be fully protected and the able-bodied unemployed and the poor should be provided with work, so that they might become useful members of the community.

Positive Steps to Encourage Charity : First of all, the people are ordered to give away their surplus wealth to the poor. Then it is stressed that they should generously spend their wealth for the preservation of the common good of society, so that the economic system might stand firmly on a sound foundation. If, in any society, the wealthy, instead of spending, start accumulating wealth, poverty will spread rapidly, inequalities of wealth will increase and wealth will gradually come into fewer hands which will reduce the purchasing power of common man and disrupt the economic system.

Islam takes the following steps to encourage people to spend their wealth in the service of the community :

(1) *God enjoins Good* : God commands people to do good to their fellow creatures to the best of their ability and power and in return, they may hope for goodness from Him. The Holy *Quran* requires all *Muslims* to do good to others in these words :

"But do thou good, as God has been good to thee." (28 : 77)

And again in Sura '*Al-Nahl*' in the following words :

"Surely God enjoins justice and the doing of good (to others and the giving to the kindred)." (16 : 90)

"This verse deals comprehensively with the different degrees of goodness. The lowest form of goodness is that which is called '*adl* (عدل) or justice or returning good for good, and includes not only justice proper, but also the fulfilment of all duties and

obligations, as they all more or less take the form of doing good for good. As higher degree of goodness is, however, that which is called *ihsan* (إحسان), or goodness proper. It is the doing of good in cases where man received no benefit. The last stage of goodness is that in which a man's nature is so inclined to good that he has not to make an effort for doing good; he does good to all people as an ordinary man does good to his own kindred. In fact, he looks upon the whole community as his kindred."

This is the spirit which *Islam* inculcates among its adherents so that they may do good to others, not for any reward but, for its own sake (to please God).

Then in *Sura 'Al-Baqara'*, the believers are commanded to spend their wealth in these words:

"O ye who believe! spend of that wherewith We have provided you before a day come when there will be no bargaining, nor friendship, nor intercession." (2 : 254)

"Spend here means to give in charity, or employ in good works, but do not hoard. Good works would in *Islam* include everything that advances the good of one that is in need whether a neighbour or a stranger, or that advances the good of the community, or even the good of the person himself to whom God has given the bounty. But it must be real good and there should be no admixture of baser motives, such as vain glory, or false indulgence, or encouragement of idleness, or playing off one person against another."¹

A few verses later the same thing is repeated in these words:

"O ye who believe! Spend of the good things which ye have (honourably) earned, and of that which We bring forth from the earth for you, and seek not the bad (with intent) to spend thereof (in charity) when ye would not take it for yourselves save with disdain; and know that God is free of all wants, and worthy of all praise." (2 : 267)

In these verses stress is laid on giving the best for charity which is considered to be means of human progress and pros-

perity. Here is a reference to that "law of Nature" on which depends the rise and fall of nations; it is shown that a nation, which spends wealth on itself freely and plentifully, prospers and remains living for ever and that which spends in a miserly manner, ceases to exist as a free nation.

The *Muslims* are advised that, as they are sent for the establishment and maintenance of "justice", it is therefore incumbent on them (and they are more under an obligation than others) that they should spend more liberally in the name of God for the maintenance and preservation of their economic system and to keep their principle of "justice" alive in the world. For instance, it is stated in *Sura 'Al-Baqara'* in these words:

"And spend of your substance in the cause of God, and make not your own hands contribute to your destruction." (2 : 195)

(2) *Charity Breeds Righteousness*: The Holy *Quran* teaches high moral principles to develop right spirit in the individual so that he may feel natural tendency to help other people. And, in fact, this moral attitude of the individual which makes him duty bound to help other people in need, is the basis of the Islamic principle of *Anfaq* (انفاق). Every *Muslim* is fully conscious of the fact that he cannot attain righteousness without spending his wealth in the name of God as stated in the following verse of the Holy *Quran*:

"You cannot attain to righteousness unless you spend out of what you love. And what you spend, God surely knows it." (3 : 92)

This verse makes spending of what one loves i.e. his wealth, his person etc., for the common good of society as a condition to his attaining righteousness.

Then in *Sura 'Al-Baqara'* in the following words:

"It is not righteousness that you turn your faces towards the East and the West, but righteous is the one who believes in God — and gives away wealth out of love for Him." (2 : 177)

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, op. cit., P. 102.

It is a warning to the believer that they should not fall into the error into which the previous people fell, who sacrificed the spirit of religion for the outward ceremonial functions. The essence of religion we are here told is faith in God and benevolence towards men. "And one of the action by which people may attain righteousness is by giving away their wealth in the way of God."

In the following verse of the Holy *Quran* is described one of the qualities of a righteous one :

"Those who spend freely (of that which God has given them) in ease and in adversity ; — For God loves those who do good." (3 : 134)

Here is a definition of the righteous ones who, "so far from grasping material wealth, give freely, of themselves and their substance, not only when they are well-off and it is easy for them to do so, but also when they are in difficulties, for other people may be in difficulties at the same time. They do not get ruffled in adversity, or get angry when other people behave badly, or their own good plans fail. On the contrary, they redouble their efforts. For the charity, or good deed — is all the more necessary in adversity."

(3) *Charity Begets Love of God* : Spending in the way of God is so important that it wins the love of God as stated in the following verse of the Holy *Quran* :

"Those who spend in ease as well as in adversity — And God loves the doers of good (to others)." (3 : 133)

Spending of one's wealth is here called an act of goodness which begets love of God. Anyone who desires love of God should start spending out of his wealth on the needs of the poor and the needy in the community. "Doing good to others, besides being a great quality, strengthens the bonds of union which is so necessary for success."

Again in *Sura 'Al-Baqara'* in these words :

"If you manifest charity, how excellent it is ! And if you hide it and give it to the poor, it is good for you." (2 : 271)

Spending of money, both in public and in private, is commended. No matter how you spend your wealth, openly or secretly, so long it is spent for the welfare of the poor and the needy, it is considered an act of goodness and righteousness by the Almighty God and will win His pleasure and love.

(4) *Charity is Rewarded* : God assures all those, who spend their wealth for the common good of society merely to seek His pleasure, that their efforts and sacrifices will be duly rewarded. Spending in the name of God is an attribute of a true believer and will certainly be rewarded as stated in the following verse :

"(They) believe in God and His Messenger, and spend of that whereof He has made you heirs. So those of you who believe and spend — for them is a great reward." (57 : 7)

And then in *Sura 'Al-Baqara'* :

"Those who spend their wealth by night and day, privately and publicly, their reward is with their Lord." (2 : 274)

It is a prophetic assurance to the *Muslims* that if they make sacrifices for the national welfare, their efforts will not be wasted but will be amply rewarded in the form of individual prosperity and national progress.

(5) *Charity Increases Wealth* : People are encouraged to spend more and more on the common good of society. They are promised that, by so doing, their wealth will not decrease but will increase in the eyes of God. Every act of goodness will help in strengthening the bonds of love and unity among the people. Trade and industry will prosper, employment will increase and benefit all, including those who spend their wealth for the common good of society. Above all, they will have the blessings of God both in this world and the next world. The following verse of the Holy *Quran* promises them prosperity if they spend their wealth in the name of God :

"If you set apart for God a goodly portion, He will double it for you and forgive you. And God is multiplier (of rewards)." (64 : 17)

The words "set apart for God" refers to spending on the common

good of the community. There is no doubt that, if such a spirit is infused among the people, it will quicken the rate of progress of that nation manifold and every one will benefit from the national prosperity.

Then in *Sura 'Al-Hadid'* :

"The men who give in charity and the women who give in charity and set apart for God a goodly portion, it will be doubled for them, and their's is a generous reward." (57 : 18)

This verse makes it clear that, if the whole community cooperates in helping one another, God will bless their efforts with greater and greater prosperity for the benefit of all. In other words, if the community looks after its poor and weak members, its efforts will be doubly rewarded by God.

Again this promise of increase in wealth is repeated in *Sura 'Al-Baqara'* in these words :

"The parable of those who spend their wealth in the way of God is as the parable of a grain growing seven ears, in every ear a hundred grains. And God multiplies (further) for whom He pleases. And God is Ample-Giving, Knowing." (2 : 261)

The comparison of money spent in the cause of Truth to a grain yielding increase is to show : firstly, that the progress of *Islam*, like any other community, depended on the sacrifices which the individual members of the community made ; and secondly, that the expenditure of money must be accompanied with hard labour, as seed cast on ground unaccompanied by any labour would not grow. Thus sacrifices, both in money and time, are necessary for the continuing prosperity and progress of a nation.

Then a few verses later, it is said :

"And the parable of those who spend their wealth to seek God's pleasure and for the strengthening of their soul is as the parable of a garden on elevated ground, upon which heavy rain falls, so it brings forth its fruit two-fold ; but if heavy rain falls not on it, light rain (suffices)." (2 : 265)

Again "this is the parable of the believers who will reap the fruits of the sacrifices they make. They are spoken of as spend-

ing "to seek God's pleasure" because all their efforts were for the upholding of truth, and "for the strengthening of their souls", for every act of self-sacrifice being due to their certainty of the ultimate triumph of the Truth, which in its turn gives them strength to make still greater sacrifices.

In the same *Sura*, the believers are asked to spend their wealth in the way of God and He will multiply it manifold, in these words :

"Who is it that will offer to God a goodly gift ; so He multiplies it to him manifold ? And God receives and amplifies." (2 : 245)

The word "God receives and amplifies" clearly shows that any sacrifice, in time or money, made for the common good of society to seek the pleasure of God will be amply rewarded by Him. The words in all these verses are very significant for they promise the reward in both the worlds. In this world, people will be rewarded for their sacrifices in the form of increased wealth and prosperity, while in the Hereafter, their reward will be the Pleasure of God and life of bliss and happiness in the gardens of Paradise.

The promise is repeated again in these words :

"And whatever you give in charity, desiring God's pleasure—these will get manifold." (30 : 39)

This verse lays stress upon the doctrine of charity to one's fellow-men. The *Muslims* are asked to seek an increase of wealth by giving it to help their poor brethren. They are assured that by doing so they will not lose anything but will gain ample reward from God in prosperity and wealth.

However, insignificant the amount of charity may be, it will surely be rewarded by God. The Holy Prophet made it absolutely clear when he said, "even if a man gives one date (i.e., insignificant amount of money) in charity from his honestly earned wealth, God accepts it with pleasure and increases it."

Then again in *Sura 'Al-Baqara'*, it is said :

"And whatsoever good thing ye spend, it is for yourselves,

when ye spend not save in search of God's pleasure; and whatever good thing ye spend, it will be repaid to you in full, and ye will not be wronged. (2 : 272)

Here assurance is given that your charity will not go unrewarded. Don't think that, whatever good you have done, will be wasted and you will be wronged. Rest assured, the promise is given and you shall be rewarded in full. Besides, your charity will help in removing the inequalities of wealth and in establishing the "rule of justice" in the world, and then you will, along with others, share in the benefits of such a good system.

And in Sura 'Fātir', while enumerating the good qualities of the righteous, it is stated :

"(They) spend (in charity) of that which We have bestowed on them, secretly and openly; they look forward to imperishable gain, that He will pay them, their wages and increase them of His grace." (35 : 29)

"Here is a metaphor from commerce. The good man's charity comes not merely out of superfluities, but out of "what God has provided" for him. He therefore recognises two things : (1) That his wealth is not his absolutely, but that it is given to him by God ; and (2) that he must deny himself the use of some of it, as a merchant puts by some of his wealth to invest as capital. Only, the godly man's commerce will never fail or fluctuate ; because God guarantees him the return, and even adds something, to the return out of His own bounty."¹

Thus in this verse further assurance is given that, for whatever you spend in charity, you will not only be given a legitimate reward but more. This is indeed a reference to the hard facts of life, that the individual and social benefits which the people will receive with the establishment of "rule of justice" in society, will be worth far more than the wealth they have spent in charity. All the people will benefit from it equally and there will be neither beggars nor multi-millionaire Shy-locks in this system:

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, op. cit., P. 1161, Note 3915.

(6) *Charity Brings Happiness* : Among other things, Anfaq brings happiness to the people, if they continue serving humanity seeking the pleasure of God. This is stated in Sura 'Al-Insan' in the following words :

"And they give food, out of love for Him, to the poor and the orphan and the captive — So God will ward off from them evil of that Day, and cause them to meet with splendour and happiness." (76 : 8-11)

"The feeding of the poor spoken of here is in relation to the service of humanity. People who do such acts of kindness combine the service of God with the service of humanity. The words for Allah's pleasure (or out of love for Him) clearly show that it is of the love of Allah that these verses speak. Man worships Allah for the love of Allah, but the Holy Quran requires him to serve humanity also for the love of Allah.

Then in Sura 'Al-Lail', it is said :

"Then as for him who gives and keeps his duty, and accepts what is good — We facilitate for him (the way to) ease (and happiness)." (92 : 5)

Giving away one's wealth in the name of God is spoken of here as accepting what is good. Thus by serving humanity for the love of God, people may acquire goodness. And for such people God promises life of ease and happiness.

(7) *Guarantee of Success* : The Holy Quran promises a happy and successful ending to those who spend their wealth in the name of God. In sura 'Al-Baqara' they are given the good news of the success of their sacrifices in these words :

"Who believe in the Unseen and keep up prayer and spend out of what We have given them — these are on the right course from their Lord and these it is that are successful." (2 : 3-5)

This verse declares in very clear words that those who believe, keep up prayer and spend out of their wealth, are successful. They have attained their success both in terms of the good of this life and the good of the Hereafter. The word *Muflihun* (المفلحون) is inclusive of success in this world and the Hereafter.

Then the Holy *Quran* appeals to the people that if they want the pleasure of God and His blessing, they must spend out of their wealth. The appeal is made in Sura '*Al-Rūm*' in these words :

"So give to the near of kin his due, and to the needy and the wayfarer. This is best for those who desire God's pleasure, and these it is who are successful." (30 : 38)

Here the *Muslims* are asked to keep their wealth open for the use of their relatives, the needy and the way-farer. All those who are in need of help have by right a claim upon the wealth of the rich members of the community. And then they are told the news that if they spend their wealth on these beneficial purposes, they will achieve real success in this world and the world to come. "Charity to man is the practical outcome of the doctrine of the brotherhood of man, which is one of the two principles of the natural religion of man. As *Islam* has made the doctrine of the brotherhood of man a practical doctrine, it is always referred to in the *Quran* in words enjoining charity on man for his brother-man.

In Sura '*Fātir*' the unending gain from charity is stated in these words :

"Surely those who recite the Book of God and keep up prayer and spend out of what We have given them, secretly and openly, hope for a gain which perishes not." (35 : 29)

The use of the word *Tijjarah* (تجارة) is very significant. It assures the believers that spending in the name of God is a very profitable bargain which will not end in this world but will continue to benefit them in the Hereafter as well.

In Sura '*Al-Tauba*' God promises life of happiness in both the worlds in these words :

"Surely God has bought from the believers their persons and their property — theirs (in return) is a garden — It is a promise which is binding on Him.

And Who is more faithful to his promise than God ? Rejoice therefore in your bargain which you have made. And this is

the mighty achievement." (9 : 111)

God has given His Word to the believers that He will grant His blessings and prosperity if they exert themselves with their wealth and their persons in His way. All those who spend their time and money for the common good of society for His pleasure come within the scope of this promise. This bargain is so profitable and fruitful that they are told to rejoice in their bargain.

It is certainly true that the key to success and prosperity of a nation is in the realisation by its people of the importance of the COMMON GOOD OF SOCIETY. And those who serve their community with their time and wealth merely to seek the pleasure of God will have undoubtedly everlasting gains and blessings of God.

(8) *Spend Before it is Too Late* : The Holy *Quran* warns the believers to spend their wealth in the service of humanity before time runs out. They are told to avail the opportunity they have got to do good to other people before it is too late. The warning is contained in Sura '*Al-Baqara*' in these words :

"O You who believe, spend out of what We have given you before the day comes in which there is no bargaining, nor friendship, nor intercession." (2 : 254)

And in Sura '*Al-Munāfiqūn*' :

"And spend out of that which We have given you before death comes to one of you." (63 : 10)

The believers are plainly told here that the best way to win the pleasure of God is to serve His men. And they must not let this opportunity go without having done some service to His servants. Time is short and they must do something before it is too late to do any thing.

(9) *Rights of Parents and other People* : The Holy *Quran* has laid great emphasis on the rights of parents, relatives, neighbours and the destitute on the rich members of the community. The people are repeatedly asked to give financial aid to these people.

In Sura 'Bani-Isrā'il', it is stated :

"And (those who) give the kinsman his due (rights) as (also) to those in want and to the way-farer." (17 : 26)

Again in Sura 'Al-Baqara', it is said :
 "(But righteous is one who) giveth his wealth, for love of Him, to kinsfolk and to orphans and the needy and the way-farer, and to those who ask, and to set slaves free." (2 : 177)

In these lines rendering financial help to the relatives, the poor and the destitute is declared to be an act of righteousness. But "practical deeds of charity are of value when they proceed from love, and from no other motive. In this respect, also, our duties take various forms, which are shown in reasonable gradation" in the above verse.¹

Then in Sura 'Al-Nisā', it is repeated in these words :

"(Show) kindness (and do good) unto parents, and unto kinsfolk, and orphans, and the needy, and unto the neighbour who is of kin (unto you) and the neighbour who is not of kin, and the fellow-traveller and the way-farer (ye meet) and the slaves whom your right hands possess." (4 : 36)

In this verse even neighbours, friends, and travelling companions have been included, along with parents and relatives, whom the men of means must help in need.

Again in Sura 'Al-Insān' it is stated in these words :

"And they feed with the food the needy wretch, the orphan and the prisoner, for love of Him, saying : 'We feed you for the sake of God alone. No reward do we desire from you, nor thanks.'" (76 : 8)

"These words need not be actually uttered. They express the true motives of pious and unpretentious charity."² In these lines, besides the insistence on provision for the common needs of the poor, high moral education, which has no parallel in history, is given to the believers. It is said that "they meet the needs of the poor without desiring any reward from them for

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran* op. cit., Vol. I, P. 69, Note 179.

2. A. Yusuf Ali, *The Meaning of the Illustrious Quran* op. cit., P. 1657.

the love of God." This moral teaching develops a spirit of mutual help, affection and fraternity among the people and provides help in strengthening, consolidation and establishing the economic system.

(10) *Goodness and Prosperity of this World* : It is not true that goodness and charity are rewarded only in the Hereafter and bring no gain in this world. The Holy Quran has explicitly declared that every act of goodness (or every expenditure in the way of God) is well rewarded even in this world. In Sura *Al-Nahl*, this declaration is made in these words :

"Whoever does good, whether male or female, and is a believer, We shall certainly make him live a goodly life and We shall certainly give them their reward for the best of what they did." (16 : 97)

This is a promise to all the doers of good that they shall have a happy and prosperous life in this world and an eternal life of bliss in the Hereafter. It need not be emphasised here that all charity and service of humanity for love of God is an act of goodness and piety in Islam.

It is true that all acts of goodness and kindness are solely done to seek the pleasure of God and His blessings in the Hereafter. And undoubtedly Islam attaches real importance to the reward that will be given to each doer of good on the Day of Judgement. But this is also true that these ideals have far reaching influence in the economic field and bring enormous financial gains in this world as well. Encouragement to spending is in itself a great blessing in disguise in the form of boom which stimulates production and increases employment etc. (for details see chapter, on Interest and Zakat).

In Sura 'Hud', it is said :

"And O my people, ask forgiveness of your Lord then turn to Him, He will send on you clouds pouring down abundance of rain and add strength to your strength." (11 : 52)

It is clearly stated here that the destinies of people are governed by moral principles. Those who accept the moral principles and build up their social and economic structure of life upon

them are blessed with a happy and successful life in this world. And their prosperous life continues from strength to strength so long as they maintain goodness in their life.

And again in the same Sura :

"And ask forgiveness of your Lord, then turn to Him. He will provide you with a goodly provision to an appointed term, and will bestow His grace on every one endowed with grace." (11 : 3)

The word *fadl* (فضل) is inclusive of spiritual blessings in the Hereafter as well as material benefits of this world. For the doers of good who build their individual and social lives upon the eternal principles of morality, have a promise of a "goodly provision" (متاعاً حسناً) in this world. They will be given a life of abundance and opulence which will have, above all, the blessings of God. The more the wealth they get, the greater is their adherence to the principles of righteousness. The abundance and richness of this world does not lead them astray from the path of righteousness. This is in fact the "goodly provision" (متاعاً حسناً) granted to them by their Lord. On the other hand, are people, who are given "evil provision" (متاع غرور) of this world which makes them forget all the codes of morality. Apparently they are enjoying all the luxuries of life but their wealth and prosperity is devoid of the blessings of God because it is all built up on wrong code of morality. They consider wealth that is spent in the way of God as waste and utter loss, while the Holy *Quran* regards it a better and profitable bargain. They consider material benefits as the "be all and end all" of all human activities, while the Holy *Qurn* considers it as one aspect of human life. There are other things which are as important, if not more, as the material aspect of life.

The Holy *Quran* emphasises the fact that by observing the principle of goodness and righteousness, you do not lose even the material benefits but, in fact, enjoy the good of both the worlds. The following verse of the Holy *Quran* shows that human efforts never go unrewarded ;

"And whatever you spend in God's way, it will be paid back

to you fully and you will not be wronged." (8 : 60)

And then in Sura 'Al-Tauba' :

"But a good work is written down for them on account of them. Surely God wastes not the reward of the doers of good." (9 : 120)

This verse guarantees full reward for wealth that is spent in the service of the community for the love of God. And these goodly efforts of men will not be wasted even in this world. Enormous economic gains would flow from liberal spending that would enrich manifold every member of the community, including the doer of good.

(11) *Keep your Wealth Open for Others* : Islam wants to create a society in which every one helps his destitute and the needy members of the community. And people do not spend all their wealth merely on the satisfaction of their own wants but reserve a portion thereof for parents, relatives, neighbours, the poor and the needy in the community. And, as the saying goes, charity begins at home, they are required to help their parents who may need some financial aid in old age ; then come the poor relatives who may also need some assistance ; then the poor neighbours ; thereafter come the rights of the poor and the needy in the whole community. Thus a true believer is always prepared, after meeting his own family's wants, to assist other people in need of such help.

The Holy *Quran* has upheld this principle and has demanded from its followers that they should always try their best to help the poor and the needy in the community. It has laid great stress upon the fact that no one can attain righteousness unless one spends out of his wealth for the love of God. It has further emphasised that there is a claim of your parents, relatives, neighbours, the poor and the needy on your surplus wealth. In fact the whole community has a claim on the surplus wealth of the rich and they are duty bound to meet this claim generously if they believe in God and the Day of Judgement...And if they fail to meet this claim justly, they should be prepared to face the charges on the Day of Judgement.

The entire *Muslim* community is thus knit together by ties of love, faith and brotherhood. If you have today, you help others who have not, so that if you or your successors have not tomorrow, you might be helped by those who have. This spirit is infused by the teachings of the Holy *Quran*. In Sura '*Bani-Isrā'il*', it is said :

"And thy Lord has decreed that you serve none but Him, and do good to parents—and give to the near of kin his due and to the needy and the way-farer, and squander not wastefully."

(17 : 23-26)

It may be noted that here a *Muslim* is decreed to do three things :

(a) To serve God ;

(b) To be good and generous to parents ; and

(c) To give due to the relatives, the poor etc.

Thus service of parents, relatives and other poor and needy in the community is placed next to obedience to God. In other words, it is commentary of the first in the decree, that is to say, it is inclusive in the former. Being good to parents and giving due to the relatives and the needy is in fact part of obedience to God. Those who are obedient to God should automatically be good to parents and be paying their due to the relatives and the needy. If anyone claims to serve God but is not good to parents and does not give due to relatives and to the poor, he is a liar and in fact does not obey God but obeys the devil.

But it may be pointed out that the rights of all these people are not equal. First come the rights of parents, then of wife and children. The Holy Prophet advised people to spend in the first instance, on their parents and children and said that¹ "if anyone is spending (on others) while the needs of the persons under his guardianship (i.e., parents, children and his wife) remain unfulfilled, is encroaching upon their rights." The Holy Prophet once remarked that¹ "the people who deserve your

1. *Bukhari and Muslim*, quoted by *Mishkat*, Urdu edition, op. cit., P. 333, Nos. 1822-1827.

wealth most are your wife and children."

In the third place come the rights of relatives. The Holy Prophet has asked for financial help for relatives as far as means permit. He laid great stress on helping relatives and told them, "If¹ any one likes that his sustenance be abundant or his life prolonged, then let him be kind to his relatives."

The fourth claim is the neighbour's. The Holy Prophet insisted on the protection of a neighbour's life, property and honour and advised his followers to give some of their wealth to their neighbours. And once he said that² "there is a doubt in the faith of a man who feeds himself while his neighbour starves." According to another *hadith*, the angel *Gabriel* insisted so much on the rights of neighbours that the Holy Prophet thought they would become heir to the property (of the deceased neighbour).

Then come the rights of the orphans, widows, destitutes, travellers, servants and friends and the general community. In fact, *Islam* enjoins every *Muslim* to respect and protect the rights of his fellow-men. And the Holy Prophet, while describing the qualities of the believers, remarked, "thou wilt see the faithful in their having mercy for one another and in their love for one another and in their kindness towards one another like the body; when one member of it ails, the entire body ails, one part calling out the other with sleeplessness and fever." According to another saying of the Holy Prophet, "believers are in relation to one another as parts of a structure, one part of which strengthens the other."³

It may be mentioned here that this treatment is not confined to the *Muslims* only but includes all human beings. How could the Prophet, who would not tolerate the ill-treatment of animals, see human beings ill-treated? Once the Holy Prophet passed by a camel that had grown extremely lean, he then advised his followers in these words: "Be careful of your duty to God

1. *Mishkat* op. cit., P. 210, No. 4674.

2. *Ibid.*, P. 220, No. 4747.

3. *Bukhari* quoted by Dr. Yusuf ud Din, op. cit., P. 135.

regarding these dumb animals ; ride them while they are in a fit condition, and eat them while they are in a fit condition."

(12) *No Reward but Love of God* : Finally the Holy *Quran* provides moral standards for those who spend in the way of God so that they do not unnecessarily expect gratitude from the recipients of charity and thus destroy the very purpose of charity. A very high moral education is given to the people so that they may not have any unworthy thought.

The Holy *Quran* reminds the believers not to spoil their charity in these words :

"O ye who helieve ! render not vain your charity by reproach or by injury, like him who spends his wealth only to be seen of men and believes not in God and the Last Day". (2 : 264)

"Whose who spend their wealth for the cause of God and afterward make not reproach and injury to fall on that which they have spent ; their reward is with their Lord, and there shall be no fear come upon them, neither shall they grieve. A kind word with forgiveness is better than charity followed by injury." (2 : 262-263)

The *Muslims* are here advised to give charity and not to reproach or injure the poor for saying a few kind words to the poor is better than charity followed by a reproach or injury. They are asked to spend out of their wealth merely seeking the pleasure of God and not for show as such charity is wasted. Thus "a very high standard is set for charity".¹

(a) It must be in the way of God.

(b) It must expect no reward in this world.

(c) It must not be followed by references or reminders to the act of charity.

(d) Still less should any annoyance or injury be caused to the recipient.

Indeed, the kindness and the spirit which turns a blind eye to

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, op. cit., Vol. I, P. 106, Note 309.

other people's faults or shortcomings is the essence of charity. These things are better than charity if charity is spoilt by tricks that do harm."

This high moral education breeds men of high character, who not only try to satisfy the needs of others without wishing them feel under any obligation but often even deny themselves and spend all their wealth on the common good of society, feeling only gratitude for the opportunity they have been given (by God) to do their duty.

The Holy Prophet showed appreciation of the behaviour of those who conceal charity in these words :¹ "There is a man who gives charity and conceals it so much so that his left hand does not know what his right hand spends (in charity)." In fact the intention of the Holy Prophet was to stifle the desire to make a show of one's wealth (by charity) in order that people should help the poor merely seeking God's pleasure.

In short, *Islam* develops such a spirit among its followers that they serve other people freely, naturally and spontaneously for the love of God. They willingly serve others without expecting any reward or benefit. They all assist each other merely to seek the pleasure of God.

It is through this moral education and training of its followers that *Islam* intends to establish a moderate and well balanced economic system, avoiding the extremes of capitalism and communism. It develops in them a very high standard of morality and provides them with eternal moral values. As a result, they acquire and develop high qualities of mutual help, cooperation, self-sacrifice, love and affection for other members of the community. And they become so responsible and conscientious members of society that the rich among them, instead of wasting their surplus wealth on luxuries and superfluities of life, spend it on the needs of the poor and the destitute ; while the poor, without having any feeling of hatred and frustration

1. *Bukhari and Muslim*, quoted by Imam Navavi, "*Riaz-al-Saleheen*," Urdu translation by Amatullah Tasneem, "*Zad-e-Safar*", 3rd edition, P. 217, No. 2/348.

against the rich, are grateful to God for keeping them on the right path in times of adversity.

Besides, when the rich spend out of their most cherished wealth in the name of God, the deep rust on the mirror of their mind developed by the love of money is cleared up and their disease of niggardliness is cured. Love for money is suppressed and the spirit of mutual help is further developed. Individual selfishness gives way to self-sacrifice for the common good of society. And these together form the foundation on which the super structure of the most equitable, just and balanced economic system, free from the evils of capitalism and the coercive regimentation of communism, is built up.

Negative Steps to Encourage Charity :

In addition to the positive steps explained above, Islam takes certain negative steps to encourage charity among people. It consists in condemnation of the habit of miserliness and niggardliness among the people. The people who are niggardly in spending out of their wealth in the name of God are regarded criminals of society for, by this act of theirs, they not only harm themselves but also endanger the common good of the community. They are therefore warned of the severe punishment on the Day of Judgement in addition to the economic hardship, they would suffer in this world. This warning is given in Sura 'Al-Nisā' in these words :

"Who are niggardly and bid people to be niggardly and hide that which God has given them out of His grace. And We have prepared for the disbelievers an abasing chastisement."

(4 : 37)

Niggardly people are here called disbelievers and are warned of the severe consequences in this world of their withholding the circulation of money and disgraceful punishment on the Day of Judgement.

Then in Sura 'Al-Lail' in the following words :

"And as for him who is niggardly and considers himself self-sufficient and rejects what is good — We facilitate for him

(the way to) Distress." (92 : 8-10)

The use of the word *واستغنى*, considers himself self-sufficient is very significant. It shows how the whole humanity is interdependent and how success of one individual (or a nation) is dependent upon the help and cooperation of other individuals (or nations). If anyone thinks that he can live alone and therefore does not cooperate with other members of the community, he is totally mistaken. In this life, no one can attain success and prosperity by himself without the assistance of others. In fact such a person, by denying good to others, denies good to himself and consequently falls himself in distress.

Again in Sura 'Al-Baqara', it is stated in these words :

"The evil one threatens you with poverty and enjoins on you lewdness. But God promiseth you His forgiveness and bounties." (2 : 268)

God gives good tidings of His bounty and blessing to those who spend in His way and assures them that an act of kindness (i.e., charity) will never render them poorer. In this world,¹ "good and evil draw us opposite ways and by opposite motives, and the contrast is well marked out in charity. When we think of doing some real act of kindness or charity, we are assailed with doubts and fear of impoverishment ; but evil supports any tendency to selfishness, greed, or even to extravagant expenditure for show, or self-indulgence, or unseemly appetites. On the other hand, God draws us on to all that is kind and good, for that way lies the forgiveness of our sins, and greater real prosperity and satisfaction. No kind or generous act ever ruined anyone."

Then in Sura 'Muhammad', it is said :

"Behold ! Ye are those who are invited to spend in the way of God, yet among you there are some who hoard (and are niggardly). But as for him who hoardeth, he hoardeth only from his soul. And God is free of all wants, and it is ye that

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, op. cit., P. 109, Note 318.

are needy. And if ye turn away (from the path He has shown you). He will substitute in your stead another people, and they will not be like you!" (47 : 38)

It is clearly stated here that if you are niggardly in spending your wealth in the way of God, you must know that He "is free of all wants and independent of any need that we can meet" but you "are the needy beggars who should claim the privilege before the Lord of bounties unbounded." Do not think that in this way you are helping God for He is above such weakness, but in fact, by doing this you are helping yourself. If you remain miserly and do not spend anything for the good of the individual and the community, this act of your will create economic inequalities which will ruin society and ultimately, you will also be ruined with the rest. By saying that "if ye turn away (from the path of righteousness which God has shown you), He will substitute in your stead other people, and they will not be like you", the fact that the existence and the perservation of a society is not possible without liberal spending is passed home. A nation which stops spending in the way of God (i.e., in the common good of the nation) can never continue to exist as a free nation.

Then the Holy *Quran* praises the people, who have not been niggardly, in *Sura 'Al-Taghabun'*, in these words :

"And whoso is saved from his own greed—they are the ones that achieve prosperity (and are the successful)." (64 : 16)

Here it is shown that "our worst enemy is within ourselves—the grasping selfishness which would deprive others of their just rights or seize things which do not properly belong to it. If we can get over this covetous selfishness, we achieve real prosperity in justice and truth."¹ The Holy *Quran* also regards as successful in life those people who are able to get over this greed (of niggardliness) and spend generously in the way of God ; while those, who are miserly, are ruined, even though they may think their wealth and its comforts are everlasting.

1. A. Yusuf Ali, *The Meaning of the Illustrious Quran*, op. cit., Vol. II, P. 1560, Note 5499.

And again in *Sura 'Yasin'*, it is said :

"And when it is said unto them : spend of what wherewith God hath provided you, those who disbelieve say unto those who believe : shall we feed those, whom God, if He willed, would feed ? You are in nothing but in manifest error." (36 : 46)

There are many sayings of the Holy Prophet which further amplify the message of the Holy *Quran*. The Holy Prophet always encourages people to spend in the way of God and not to be niggardly. Once he told his people to "get rid of niggardliness because the nation before you were ruined by (their habits of) miserliness."

Hakim bin Hizam reported that the Holy Prophet said : "This wealth is sweet (and the people have great love for it), whoever keeps it generously (and gives charity to the people) will find it increasing (with blessings of God) : and whoever behaves niggardly will not find increase in his wealth. His condition is such that he eats but his stomach remains empty."¹

It is reported from *Abu Hurairah* that the Holy Prophet said : "Woe unto slaves of money and slaves of silken and woollen clothes. Their condition is such that they are happy if one gives them something, but are unhappy if nothing is given to them."²

Thus *Islam*, by encouraging charity and discouraging miserliness in the community, stimulates circulation of money and thereby investment activities of the people in the community and keeps the economic system in perfect equilibrium.

1. *Bukhari*, Urdu edition, Vol. III, op. cit., pp. 313-14, No. 1358.

2. *Ibid.*, pp. 312-313, and *Mishkat* Urdu edition, op. cit., P. 244, No. 4925.

RENT OF LAND

In this chapter we will discuss rent of land and other problems relating to land.

Nature of Rent : Economic rent is the surplus of a piece of land which is left over after deducting the cost of cultivation. After awarding the remuneration to the various factors of production, what is left is called economic rent. In other words, it is the surplus over the cost of cultivation. Some economists define it as that portion of the produce of land which is left over after paying all the costs of cultivation. Its characteristic feature is that it is a free gift, which accrues without any labour due to the natural or accidental favourable conditions.

But we have used the term rent in this book to mean that amount of the produce or cash which is paid by the tenant or the cultivator to the landowner.

Determination of Rent : After explaining the meaning of rent, we would now like to discuss the principles according to which rent of land is determined in an Islamic State. It may however be pointed out that the two fundamental principles of Justice and Benevolence are the basic determinants of land rent. Justice demands that rent should be levied upon the tenant cultivators according to their ability to pay so that they might feel happy and satisfied, and in consequence work hard to increase the productivity of land. And Benevolence demands that rent should only be collected from them when they have produced over

and above their needs ; and when their produce is not in excess of their needs, no rent should be collected from them.

The Holy *Quran* enjoins justice and benevolence in all spheres of life in these words :

"Surely God enjoins justice and the doing of good to others."

(16 : 90)

This verse deals comprehensively with the different degrees of goodness as explained earlier. The Holy *Quran* expects justice and goodness from every Muslim in his individual dealings with other members of the community. In connection with the land rent, therefore, it demands not only justice but benevolence and goodness to the tenant. If the land-owner tries his best to do justice and good to the cultivator, the latter will naturally work hard to the best of his ability and strength to increase the productivity of land for the benefit of both. The spirit of service to the community is so much infused among the *Muslims* by the teachings of the Holy *Quran* that every one tries to win the pleasure of God by doing more good than others. Both the landowner and the tenant endeavour to follow the spirit of the verse :

"Vie one with another in virtuous deeds." (5 : 51)

In doing good to each other so that they might be able to win the pleasure of God. Therefore no wonder if the landowners are just and benevolent and the tenants hardworking and honest in a *Muslim* economy.

The third principle which governs determination of rent is referred to in the following verse of the Holy *Quran* :

"Wrong not, and you shall not be wronged." (2 : 279)

This principle implies that rent should be fixed in such a way that it bites neither the tenant nor the landowner. It should neither be too high as to be burdensome on the tenant ; nor should it be too low as to damage the interests of the landowner. It must be fixed with justice and goodness to both so that the interests of the partners involved in the contract are well safeguarded and protected.

In order to protect the interests of both the landowner and the tenant, the *Muslim State* considers three factors, that is

- (i) Productivity of land,
- (ii) Cultivator and his welfare, and,
- (iii) Cost of cultivation, before determining the rent of land.

Due consideration is given to the productivity of the land, convenience and well-being of the cultivator and his expenses of cultivation. The convenience of the cultivator is given top priority in fixing rent of land and the landowner is not considered justified, under any circumstances, to fix rent of land in excess of what the land can bear.

During the Time of Holy Prophet : The Holy Prophet took great care to protect and safeguard the rights of the cultivator in the determination of rent. After the conquest of *Khaibar*, the Holy Prophet left the lands in the possession of the Jews and, on their request, entered into a contract with them for sharing the produce of their lands. The Holy Prophet sent *Abdullah bin Rawaha* who addressed the Jews in these words :

"The Holy Prophet has not sent me here to devour property (produce) unjustly, but has sent me to divide the produce between you and the Messenger of God according to the contract. Now it is up to you, if you wish, I will work out and estimate the total produce and divide it into two equal parts, and you take the first pick ; and if you wish, you may work out and estimate the total produce and divide it into two equal shares, and I will take the first pick and will have no objection to your division. Hearing this, the Jewish farmers said, "it is that justice and equity which holds the heavens and the earth."¹

During the Caliphate of Umar : *Umar* insisted upon his officers to be fair and just in fixing rent of land. When he sent his Settlement Officers, *Hozaiifa bin Yaman* and *Othman bin Haneef* to the conquered countries of Iraq and Syria for the determination of rent of land, he addressed them in these words :²

1. *Kitab-al-Kharaj*, op. cit., P. 221.

2. *Ibid.*, pp. 191-192.

"You must consider carefully when you determine (or collect) rent that it is not more than what the land can bear." *Imam Abu Yusuf*, while commenting on the principles of rent determination adopted by *Umar*, remarks that "we shall not levy rent upon the cultivators more than their ability to pay and shall not burden them more than what their lands can bear."

On another occasion *Imam Abu Yusuf* refers to the orders of *Umar* to his Settlement Officers in these words :

"And you shall so (fix and) collect rent from the cultivators that it is convenient, light and agreeable to them to pay."¹

During the Caliphate of Ali : The principles of rent determination initiated by the Holy Prophet and adopted by his First two Caliphs were strictly followed by his successors. *Ali*, while explaining the basis of rent, once said that "we are commanded to collect only that which is left over after meeting the needs of the cultivators."²

During the Caliphate of Umar bin Abdul Aziz : *Umar bin Abdul Aziz* once wrote to his governor *Adi bin Artat* regarding the determination and collection of rent of land in these words : "Listen carefully, whatever is due from the previous rent, accept it only if they can pay from what is over and above their needs, otherwise leave it. By God ! It is much better that these people should come with their faults to the Court of God than I should come after punishing them for not paying their heavy rents."

On another occasion he said, "every ruler will be questioned about his subjects on the Day of Judgement. It is therefore necessary that we should look after all those things which might benefit them. Any one who is put to test regarding his subjects will find it a very hard trial."

Qazi Abu Yāala sums up the principles which determine rent of land in an Islamic State in these words : "It is necessary for the authority which determines the rent to consider three things. The three things are these :

1. *Kitab-al-Kharaj*, op. cit., pp. 303-307 and P. 349.

2. *Ibid.*, P. 137.

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1. *Kitab-al-Kharaj*, op. cit., pp. 303-307 and P. 349.

2. *Ibid.*, P. 137.

- (i) Difference of land ;
- (ii) Difference of crops ; and
- (iii) Difference in irrigation. It is important that rent is determined exactly according to the nature of land—its fertility, the crops raised from it and the type of irrigation used for watering the crops.”¹

Umar bin Abdul Aziz wrote this order to the governor of *Kufa* regarding rent : “In this connection, the best way and the finest principle is justice and benevolence ; it is therefore necessary that you must differentiate between habilitated and unhabilitated lands and must never consider unhabilitated as habilitated land ; collect from the former what it can bear and be careful not to collect from the latter anything over and above the fixed rent. Even here the comfort and the convenience of the cultivator should be taken into account.”²

Thus it was absolutely necessary during the early Caliphate to look at the nature of land and the cultivator and his labour and cost of cultivation before fixing the rent of land, so that it would neither encroach upon the rightful share of the cultivator nor burden him beyond his capacity nor would there be any fear of injustice or severity in it. It was because of these factors that different rates of rent were levied on different lands in different countries during the early Caliphate. Everywhere Land Settlements were made in accordance with the condition and requirements of the region. And it was considered necessary in the determination of rent that enough was left over with the cultivator to meet his regular as well as emergency demands. It was always the intention of the Caliphate that rent should not be too heavy as to reach the last limit of one's capacity, but should be moderate and leave enough with the cultivator to meet even his calamities and natural catastrophes.³

The principles which determine the rent of land in an Islamic State can be summarized as under :

1. *Al-Ahkam-al-Sultania*, quoted by *M. Taqi*, op. cit., P. 151.
2. *Al-Amwal*, P. 46, quoted by *M. Taqi*, op. cit., P. 242.
3. *Al-Ahkam-al-Sultania*, quoted by *M. Taqi*, op. cit., P. 245.

Principles :

(a) *Nature of Land* : The nature of land plays an important part in determining the rent of land in an Islamic State. The amount of rent is determined according to the nature of land. A fertile land is subject to a higher rent, while a less fertile land is likely to pay a lower rent and a barren land may not pay any rent at all. If any land is incapable of yielding more than the cost of the labour and capital spent on it, and produces just enough to meet the cost of cultivation only, it will not be subject to any rent. This is because rent is levied only on the surplus produce which is over and above the cost of cultivation. This principle is referred to in the following verse of the Holy *Quran* :

“God imposes not on any soul a duty beyond its scope, (or on no soul doth God place a burden greater than it can bear).”

(2 : 286)

The words “it can bear” clearly show that *Islam* does not approve that rent, or any other payment, should be demanded in excess of the means of the cultivator. It may be said on the basis of this verse of the Holy *Quran* that the amount of rent depends upon the nature of land and varies with changes in its nature. The maximum rent that can be levied on any land will be equal to “what it can bear.” Obviously a cultivator will be able to bear the rent only if the produce is more than the cost of cultivation. If the produce of land is just sufficient to cover the expenses of cultivation and no more, it cannot then bear the burden of other charges like rent. In other words, if any land has a surplus produce over and above the cost of cultivation, it can then bear the burden of a levy and will therefore be subject to rent.

The cultivator is asked to pay the due (rent) from his land in these words :

“And pay the dues thereof (that are proper) on the harvest day.” (6 : 141)

“The dues” in this verse are usually taken to mean the payment of the compulsory *Zakat* levy but it may also be taken to refer

to that surplus produce which is in excess of the cost of cultivation. The cultivator is here asked to pay the rent due from him out of this surplus.

(b) *Nature of Crops* : The nature of crops raised from any piece of land will also affect the amount of the produce and hence its rent. A land capable of producing rich commercial crops will be subject to a higher rent in comparison with land which produces less expensive crops.

(c) *Nature of Irrigation* : The amount of rent will also vary with the changes in the type of irrigation used to raise crops from any land. The greater the capital employed by the cultivator to irrigate his land, the lesser will be the amount of his rent; and *vice versa*.

(d) *Allowance for the Cultivator's Labour* : Before determining rent of land, an allowance has to be given to the cultivator for his labour. While calculating his expenses of cultivation, due regard is paid to his personal labour in the process of cultivation. This principle is deduced from the following verse of the Holy *Quran* :

"No soul will be wronged in the least, and ye shall be repaid the rewards of your deeds." (36 : 54)

The use of the words "no soul will be wronged in the least" remind us to be just and fair in our dealings with all the parties concerned. As such, it is therefore absolutely necessary that the cultivator should be given a generous and fair allowance for his labour in cultivation. Land which requires more labour (as those watered by wells etc.) must pay low rent ; while land which requires less labour (as those irrigated by rainfall) must pay higher rent.

Thus all the above-mentioned factors, i.e., nature of land, nature of crops, nature of irrigation and expenses of cultivation, including the labour of the cultivator, must be taken into consideration in determining rent of land. The first four Caliphs of the Holy Prophet always took great care in determining rent so that it was not unfair or harmful to any of the parties involved in the contract of cultivation. They tried their utmost

to protect the rights and interests of both the cultivator and the landowner.

Rent Collection : After discussing the principles which determine rent of land in an Islamic State, we will now describe the actual methods of rent collection in vogue in Arabia and other conquered countries before and after the advent of *Islam*.

Before the Advent of Islam :

(a) *Madina* : In the old days, before the advent of *Islam*, the following methods of rent collection and payment were in existence in *Madina* and other conquered countries :

(i) *Reserved Plots for the Landowner* : It was a common practice in *Madina* that more fertile plots of land were reserved in lieu of rent for the landowner and the worst plots of land were given to the cultivator.

It is described by *Rafey bin Khadij* whose family did more cultivation than any other inhabitant of *Madina*. He says that they used to rent land and reserve a certain portion of the land for the landowner, who took whatever it produced in exchange for the use of his land. Sometimes calamity fell on that portion and nothing grew in it, while the other fields remained safe ; and sometimes calamity fell on the rest of land and the portion remained safe.¹

(ii) *Better Irrigated Land for the Landowner* : Another method was that the landlord took the produce of the land watered by wells and canals, while the cultivator received the produce of land irrigated by rainfall.

Rafey bin Khadij describes this method in these words : People used to give land for cultivation, taking what grew on the water-courses or near the canal banks in rent and sometimes in exchange for extra produce. Sometimes one thing was lost, while the other remained safe ; and sometimes the other was lost and that remained safe. In this way sometimes nothing was left for the cultivator.

(iii) *Portion of the Produce for the Landowner* : According

1. *Bukhari*, Urdu edition, Vol. I, op. cit., pp. 520-521, No. 2147 & 2125.

to this method the cultivator gave a certain portion of the produce of the land to the landowner. As reported by Jabir, people used to rent land for cultivation in exchange for one-half, or one-third, or one-fourth of the produce of land. According to *Abu Jaffar* there was not a single house of the Immigrants in *Madina* who did not hire land for cultivation in exchange for one-third, or one-fourth of the produce. And *Umar* employed people on his land for cultivation on the condition that they would work on his land while he would supply the seed from his pocket, and the produce would be shared half and half between them. And if they supplied the seed, then they would have such and such a portion of the produce. *Ali*, *Saeed bin Malik*, *Abdullah bin Masud*, *Umar bin Abdul Aziz*, *Qasim Urwah* and the descendants of *Abu Bakr*, *Ali* and *Ibn Seereen*, all gave their lands on hire for cultivation on the above-mentioned principle.¹

(iv) *Fixed Amount of the Produce for the Landowner* : Another method was that the cultivator had to give a certain fixed amount of the produce of land to the landowner whatever the harvest. It was also common in *Madina* that the land was given on hire for cultivation in exchange for a certain fixed amount of the produce irrespective of the yield of land.²

(b) *Iraq* : During the reign of the Persian Kings, rent was collected from the produce of land. The Government Officers used to come at the harvest time and collect a share of the produce. The cultivator had no right to spend any thing from his harvest before the division of the produce by the Government collectors, nor he had the choice to pay his rent in cash instead of the share of his produce.³

Kabad bin Feroze, father of *Nausherwan*, ordered a new Land Settlement and fixed the rent of land which was not to exceed the value of half of the original produce of land. This method of rent collection continued up to the reign of *Nausherwan*, but after him many additions detrimental to the interest of the cultivator were made to it during the reigns of *Khusro Pervez* and

1. *Bukhari*, op. cit., Vol. I, P. 520.

2. *Ibid.*, P. 523, No. 2160.

3. *M. Taqi*, op. cit., P. 252.

Yuzd Gurd and very little share of the produce was actually left with him.¹

(c) *Syria* : In Syria land was divided into different grades according to the differences in the produce and different amounts of rent were collected from different lands but the oppression of Government Officials rendered the cultivators completely helpless and destitute.²

(d) *Egypt* : The following methods of rent collection were in vogue in Egypt before *Islam* :

(i) *From Income of Land* : Rent was collected from the income of land either in cash or in kind but the cultivator was not given sufficient time after the harvest to mobilise his scattered resources in order to make the necessary payment. Besides, the cultivator was made to pay a part of the produce to the King.³

Dabiranka reports the condition of the farmers in these words : "The rent collectors accompanied by policemen stood on the spot and demanded rent from the cultivators. If by any chance, he did not have any produce to pay the rent and, therefore, could not pay the rent, he was tied up and thrown on the ground and dragged to the canal and then dipped headlong into the water."⁴

(ii) *Rent according to average of Few years' Produce* : According to this method the amount collected from the cultivator as rent of land was supposed to equal the average produce of a number of years. The authorities took the average of a few years' produce and then fixed rent accordingly.

(iii) *Land Settlement During the Reign of Egyptian Kings* : During the reign of Egyptian Kings, the Land Settlement was conducted after every four years. The average of four years' produce was taken to fix the rent of land and no changes or reductions could be made during the four yearly interval, whatever

1. *M. Taqi*, op. cit., P. 252-253.

2. *Ibid.*, P. 259.

3. *Ibid.*, P. 261.

4. *History of old Nations*, P. 90, quoted by *M. Taqi*, op. cit., P. 262.

the condition of the cultivator or nature of the crop. After four years the old settlement was terminated and the new one was re-introduced taking into account the condition of the cultivator and the changes in the produce of land.¹

(iv) *Constituents of Rent* : During the reign of the Egyptian Kings, the rent of land was composed of the following four elements : One part of rent was reserved for the King ; the second part was earmarked for the army ; the third was kept for making improvements in the land and the fourth was kept for unforeseeable mishaps.²

When the Romans occupied Egypt, they maintained the above system of the rent assessment and collection but added two more items to the rent : A large quantity of wheat to be collected and sent as a part of rent to the Byzantine Capital Constantinople ; and secondly wheat was also to be collected for the annual supply of army ration in every province.²

After the Advent of Islam : Different methods of rent collection were in vogue in Arabia and other countries at the time of the Caliphate, most of which were against the canons of equity and justice and, therefore, were declared unlawful by *Islam*. The Share Tenancy (i.e., Batai System) was the only method which was conditionally retained in the Islamic System, but, owing to its manifest evils, the Holy Prophet preferred the Cash Tenancy System. In fact, the very contract of cultivation (i.e., giving land on hire for cultivation) was disliked by the Holy Prophet but was retained at the time on the basis of Selectivity because of its usefulness to *Muslim* Community in those abnormal conditions, when all the able bodied *Muslims* were engaged in fighting in the name of God, and, perhaps, for the survival of that system.

(a) **Madina** : All the methods of rent collection described earlier, excepting share tenancy were forbidden by the Holy Prophet. The prevalent methods were considered unjust and oppres-

1. *Allama Maqrizi, Kitab-al-Khithath*, quoted by M. Taqi, op. cit., P. 262.

2. *Ibid.*, P. 263.

sive to the tenants who were unduly burdened with very heavy payments and were forced by the landowner to pay more than a just share of the produce of land. The Holy Prophet retained conditionally the share tenancy but preferred cash payment.

(b) **Iraq** : When Iraq was conquered, *Umar* appointed *Othman bin Haneef* and *Huzaiifah bin Yaman* for the purposes of Land Settlement of the country. They were well acquainted with the work and measured the land like the measuring of cloth. In the words of *Imam Abu Yusuf* :¹

"Othman knew very well how to fix rent of land and for this purpose he measured every inch of land like cloth."

All lands which belonged to the places of worship, or to people without descendants, or to those who had fled away, or to rebels, and public highways, Royal lands, forest lands and lands which had come under the river beds and the lands which were reserved for meeting port expenses were declared state land (خالصة). All other lands were left with the original owners.

Different amounts of rent were collected from different lands according to the nature of land and the type of crops raised from them. As explained earlier, the three things which were taken into consideration in determining rent of land were : Firstly the nature of land and crops ; secondly labour and cost of cultivation ; and thirdly, general conditions and circumstances of the cultivator. While explaining the differences in rents of different lands, *Kazi Mawardi* argues like this :²

"This difference was due to the differences in the surroundings and the power to bear the burden (of the levy)."

In spite of great concessions to the cultivators in the assessment and collection of rent, *Umar* called both of his Officers and enquired from them if any injustice or encroachment was done against the cultivators in the assessment or collection of rent. The Caliph was satisfied only when the officers assured him that the land could bear, twice the amount of rent they had levied

1. *Kitab-al-Kharaj*, op. cit., P. 193, No. 132.

2. *Ahkam-al-Sultania*, P. 169, quoted by M. Taqi, op. cit., P. 257.

upon it. The officers reply was :¹

"Othman replied that there was scope for levying twice the amount of present rent ; while Huzaifah said that what had been left with the cultivators was too much."

Umar did not leave the matter there but made it a point to call ten reliable men from Kūfa and Basra, whenever the rent payment arrived in the capital and took oaths from them to the effect that rent was not charged oppressively from the cultivators.

According to *Imam Abu Yusuf*, "After the payment of rent ten persons used to be called from Kūfa and Basra to bear witness by oath in the name of God that the amount of rent was collected amicably and that no *Muslim* (or *Non-Muslim*) was subjected to oppression."²

As a result, agriculture was greatly improved in Iraq and in a few years during the Caliphate of *Umar*, total rent collection increased by fifty per cent. A French writer comments on these facilities and concessions granted by the *Muslims* to the cultivators of the conquered lands in these words :³

"The principle of rent assessment and the methods of its collection have very much to do with the conquests of Islam."

In spite of this, *Umar* insisted on granting the maximum allowances and reductions to the cultivators in their rents and once remarked : "While fixing or receiving rent, you must make sure that it does not exceed the limit which the land can bear. If I remain alive (for some time), I would make the widows of Iraq so rich that they would not be dependant upon any other rich person after my death."⁴

Imam Abu Yusuf, while commenting on similar statements of *Umar*, remarks : "Take *Kharaj* (i.e., rent) in such a way that the landowner (cultivator) may feel convenience, ease and

1. *Kitab-al-Kharaj*, op. cit., pp. 191-192, No. 129, and pp. 215-216, No. 167.

2. *Ibid.*,

3. M. Shibli Nomani, *Al-Farooq*, English Translation, Vol. II.

4. *Kitab-al-Kharaj*, op. cit., pp. 190-191, No. 127.

satisfaction in its payment."¹ And he explains the method of rent collection of *Umar* in these words :¹

"We will not levy *Kharaj* (i.e., rent) on them more than their ability to pay and will not burden them more than what their land can bear."

In fact, it was the declared policy of *Umar* and his followers to levy reasonable and moderate rents which were not more than the ability of the cultivator to pay. And above all, very convenient methods were adopted to collect rent according to the needs and requirements of the cultivator.

(c) *Syria* : Islam removed all social inequalities which were prevalent among the inhabitants of Syria and brought the cultivator and the landlord on equal footing. It abolished the division between the people of cities and the villages and granted equal rights to the villagers along with the townsmen. It stopped the oppression of the rent collectors and introduced Islamic principles in the collection of rent from the cultivator.² It helped in providing more facilities and comforts to the cultivator in increasing the produce of his land.

How the Islamic state helped to improve the condition of the cultivator can be judged from the following incident. Once *Saeed bin Aamir*, governor of Syria, delayed the payment of rent to the captial. *Umar* called him to the capital and enquired about the delay. He replied that "you have placed two conditions on the collection of rent : firstly that only four *dinars* (per Acre) and no more in rent to be collected ; and secondly that no collection is to be made in haste but sufficient time is to be given to the cultivator until he has received his income from the harvest. And as we obey these regulations very strictly, the collection is delayed. *Umar* was very pleased with him and told him that he would not remove him (from his office) all his life."²

After stating this incident, *Abu Ubaid* said that the only reason for the delay was the convenience and comfort of the cultivator. When the Syrians saw this system of Islamic justice

1. *Kitab-al-Kharaj*, op. cit., pp. 189-193 and pp. 301-307.

2. *Al-Amwal*, P. 44, quoted by M. Taqi, op. cit., P. 260.

and benevolence in the neighbouring state, they invited the *Muslims* and requested them to establish similar system in their country. This historical fact is narrated in these words :

*"The villagers and the cultivators did not fight on the way and neither any signs of hostility nor any army was found until the Muslims had reached Raha (the Capital)."*¹

(d) **Egypt :** After the conquest of Egypt, the governor of the *Muslims*, called *Maqauqis* the Coptic king of Egypt and the local inhabitants to discuss the problem of rent with them and then announced the following governing principle for them :

(1) Rent will be collected, as before, both in cash or kind but collections will be made in accordance with the convenience and comforts of the cultivator.

This announcement ended the Roman System under which no time was given to the cultivators for the payment of rent.

(2) Rent will be fixed according to the nature of land and the type of crop with the consent of the cultivator.

This regulation finished Land Settlement System of the Romans under which rent was fixed on the basis of the average produce of a number of years.

(3) A new Land Settlement will be made every year in order to assess the produce of land.

(4) It is not proper to determine any time for Land Settlement but it should be made at the proper and suitable time which is most convenient of the cultivator.

(5) No extra payment is to be collected from the cultivator for it is naked aggression in the eyes of the Law.

(6) If the *Muslim* Government want to take wheat from Egypt for the supply of army rations or for any other purpose, it would pay the price without any special reduction or favour.

Roman Law according to which a large quantity of wheat was obtained in addition to rent for the Roman capital and for the supply of army rations in the province was abolished by the *Muslim* Government. Similarly the share of the Roman King

1. *Kitab-al-Kharaj*, op. cit., pp. 195-197.

from the produce of the cultivator was discontinued for there was no special share of the Caliph in the Islamic State.

Allama Macraizy describes the collection of rent in these words :¹ "All the prominent people of the village were called at the time of the collection and, in consultation with them, an estimate was made on the basis of the nature and the current produce of the land. Similar estimates were made in every region and district. After the estimate, an account was taken of the condition of the cultivators and their relative positions, and then the total estimated amount was distributed accordingly among them all. A portion of this payment was received from the artisans, traders and servants of the village but full consideration was given to the position and ability of each person. Before collection, the following expenses were deducted from the total produce of the land :

(i) Expenses on the maintenance of the churches and places of worship.

(ii) Cost of the maintenance of the village boundaries.

(iii) Expenses on things which commonly shared by all the people of the village. In accordance with the custom of the times, expenses of guests were also deducted from the total produce ; whether the guest was an ordinary person, or officer of the Caliphate or the Caliph himself. Rent was collected from whatever was left over after these deductions according to the ability of each cultivator.

In brief, rent was collected from each person according to his ability to pay and everything was taken into account to determine the relative capacity of each individual. Expenses on marriages, wives and children etc., were given due consideration. Rent collection was thus made from the cultivators after a thorough analysis of their relative position in society. If any complaint was made that the amount of rent was beyond the capacity of a person to pay, then the rent was reduced accordingly and the excess collected from those who could afford to pay more in the same village.

1. *Kitab-al-Khathath*, P. 120, quoted by M. Taqi, op. cit., pp. 263-265.

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1. *Kitab-al-Khathath*, P. 120, quoted by M. Taqi, op. cit., pp. 263-265.

Oppressions in the Collection of Rent :

Cultivators were heavily burdened by the oppressive Rent Regulations both under the Romans and the Persians. They were subjected to various kinds of severities and excesses by the rent collectors as explained below :

(1) Rent was fixed at a very high level without having any regard for the nature of land or the ability of the cultivator to pay.

(2) In the collection of rent no time was given to the cultivator after the harvest.

(3) Savage punishments were given to the cultivators for delay or non-payment of rent. They were made to stand on burning ground ; heavy utensils were hung round their necks ; sometimes imprisoned and beaten. In short, they were given the severest punishments.

(4) Besides rent and land revenue, they were made to pay additional payments of various kinds and on various occasions, e.g., customary payments ; marriage and death charges, assistance in the building of brick houses etc.

(5) They were made to work by landlords and Government Officers without any reward or for less wages.

(6) If any work was entrusted to the landlords by the Government, they accepted it but placed it entirely on the shoulders of the poor cultivators who had to do it without any remuneration.

(7) Settlement Officers and Collectors were very harsh and merciless in their dealings with the cultivators. They treated them with contempt and made them work like slaves. In fact, the entire burden of their luxurious lives was on the poor but helpless cultivators.

Improvements by Islam :

When these countries were conquered from the Romans and the Persians, the *Muslims* abolished old rent laws and introduced new system of rent based on justice and benevolence as explained

earlier in this book. The improvements made by the *Muslims* in the system of rent collection are explained below :

(a) **Roman and Persian Oppressions were Stopped :** Roman and Persian Government Officers adopted very savage and severe methods in collecting land revenue and rent from the cultivators. Seeing this attitude of the Officers, the landlords and Jagirdars also treated them with contempt and often beat them to collect their share of the rent.

Islam stopped all these savage methods of rent collection and made it illegal for any one to commit any excesses against the cultivators. Every kind of oppression was prohibited and those who were guilty of such crimes were further warned of the punishment in Hell. *Islam* thus adopted both legal and moral measures to check the ill-treatment of the cultivator.

If any officer committed any act of aggression against the cultivator, he was either dismissed or reprimanded. There were clear instructions to the officers that, if any cultivator, owing to financial difficulties or otherwise, was unable to pay land revenue (or rent) in time, he should be given sufficient time until he was in a position to repay his rent with convenience. The following incident is sufficient evidence to prove our statement.¹

When *Umar* was returning from Syria, he saw some people standing in the sun. On enquiring, it was found that those people had not paid levy of *Jizia*. *Umar* enquired the reason for non-payment and was told that they did not have the ability to pay. *Umar* reprimanded them very harshly and said : "Leave them and do not burden them more than what they can bear for I have heard the Holy Prophet saying : "Don't put people to hardship because those who do this would be put to hardship on the Day of Judgement."

The officers were severely reprimanded and the people were released. A famous will of *Umar* contains these words : "I bequeath to the Caliph who succeeds me that he should treat "Zimmis" with kindness, fulfil their contracts, fight with their enemies to protect them and burden them not with land revenue

(or rent) more than what they can bear."¹

Abdur Rahman bin Jubair bin Tafeer says that "a substantial amount of *Jizia* was brought to *Umar bin Khattab* who said that he had the feeling that they had gathered all that by robbing and ruining the people. The collectors replied on oath in the name of *Allah* that that was not so but that they had taken it from their surplus wealth with their consent. *Umar* said that without giving them any pain of beating and hanging. All replied: undoubtedly without any punishment. Then *Umar* paid unlimited thanks to *Allah* Who had not made him do such things nor commit any aggression during his Caliphate."²

Umar bin Abdul Aziz sent the following letter to *Abdul Hameed* governor of *Kufa*, regarding the collection of rent: "Don't charge more than the fixed revenue (or rent) from the cultivated lands and whatever collect from the cultivators, do it gently and with kindness."³

In view of these instructions regarding the collection of rent by the early Caliphs, *Imam Abu Yousuf* comments: "O *Haroon*! No man should be beaten or made to stand on one leg regarding the payment of rent. I am saying this because it has come to my knowledge that some collectors do such mean things as to make them stand in the sun and beat them severely and place heavy things on their necks and imprison them so that they cannot even say their prayers. All these things are a great sin in the eyes of God and are regarded as the worst of things in *Islam*."⁴

Imam Yousuf goes on "It may be mentioned that the two things i.e., justice to the oppressor and refraining from oppression, are not merely things of great value but they also increase revenue (i.e., rent) and population of towns. Justice adds blessing and oppression destroys it; and the rent which is obtained with oppression ruins towns, destroys lands and countries."⁴

1. *Kitab-al-Amwal*, pp. 43-44, quoted by M. Hifzur Rahman, op. cit., pp. 192-193.

2. *Kitab-al-Amwal*, pp. 43-44, quoted by M. Hifzur Rahman, op. cit., pp. 192-193.

3. *Ibid.*, P. 46, quoted by M. Hifzur Rahman, P. 194; and *Al-Kharaj*, P. 305.

4. *Ibid.*, pp. 109-111, quoted by M. Hifzur Rahman, op. cit., pp. 194-195.

(b) **Customary Charges**: It was a common practice in Iraq, Egypt, Syria and other countries under the domination of the Romans and Persians to receive additional charges besides rent in the name of tradition and custom from the cultivators. All the Government officials, landlords and jagirdars regarded these charges more important than rent and considered it their compulsory right.

Islam stopped all these oppressive and unjust charges and made them illegal in the Islamic State. It was declared by the Caliph that to receive any thing in addition to the agreed amount of rent, or even to make these customary payments as part of the rent contract with the cultivator, was null and void. According to *Imam Abu Yousuf*: "the customary amount charged from the cultivator over and above rent should not be taken. I have come to know that whenever any cultivator brought rent, the collector took some coins from that amount and said that it was the customary charge and that he owed as much in rent. And when this amount was not paid, he would beat them and take their cattle or sheep whatever he could lay hands on. These oppressive charges were very harmful to the cultivator as well as the Government for it reduced their revenue.¹ Above all, it was a great sin in the eyes of God and was therefore prohibited by the Caliphate.

(c) **Forced Labour**: Another mal-practice very common in those times was forced labour from the cultivators by the landlords without any compensation. The collectors and landlords made them work without remuneration. The collectors asked the landlords for extra labour and they, in turn, forced their cultivators to do the job for them. The landlords also made them do their family jobs without remuneration.

Islam put an end to this practice and made it a crime for the collectors or landlords to take forced labour from the cultivators or any labourers without remuneration. *Ibn Hazam* clearly states that it is illegal to receive any service from the cultivator other than mentioned in the rent contract, e.g., to ask him to

1. *Kitab-al-Kharaj*, op. cit., pp. 216-217.

help in the building of a house, or cleaning a house, or doing its repair, or to build the walls of a garden and similar other jobs; even the inclusion of any of these things in the conditions of the contract, renders it null and void."¹

This is because "it comes down to us from the tradition of the Holy Prophet that there is only one obligation on the cultivator and that is this that he should plough and cultivate the contractual land with his labour or capital to obtain its produce."¹

Besides, *Islam* has declared forced labour as worst form of oppression and has forbidden people to take work from others without remuneration. The Holy Prophet has said: "God says that He will argue with three kinds of people on the Day of Judgement. The one who gave Me his promise and broke it; the one who made a free man his slave and sold him; and ate his price; and the one who engaged a labourer and got his work completed but did not pay his just wages."²

Hafiz Ibn Hajar Asqalani and *Badr ud Din Aini* commenting on this *Hadith* say that to take labour from some one without paying his remuneration is a grave sin because it shows that he has made a free man his slave. And to make a free man slave is obviously a grave sin. They have argued like this: To take service and work from some one without paying his due remuneration is like selling a free man for one's livelihood. This is because he gets his own work done without any remuneration which is like making living out of the sale of that person. And also because if one does not pay wages to any one for his work, it means that he regards him his slave."³

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This *Hadith* clearly shows the importance and virtue of paying due remuneration to the labourer for his work and also the gravity of sin and crime of not paying any reward to the labourer for his work.

(d) **Work on Festivals** : Another common practice was to get labour from the cultivators on festivals, marriages and death ceremonies. And very often the amount of work on these occasions equalled and, sometimes, even exceeded the value of actual rent but, owing to their weak position, the cultivators had to submit to these high-handed claims of the collectors and the landlords.

This unjust and oppressive practice was also stopped by *Islam*. It did not consider the forced willingness on the part of the cultivators as real willingness and therefore likened it to *Riba* (i.e., interest). *Imam Abu Yousuf* advised the Caliph on this matter in these words :

"*Haroon* ! I command you not to accept in *Kharaj* (i.e., rent) any thing other than weight *Sahah* (special type of *dirhams* and *dinars* which were in circulation) because it does not include pure gold leaf ; nor remuneration of those who melted coins or silver ; nor accept gifts on "*Naurose*" and "*Mehrjan*" (Persian festivals) ; nor reward for writing receipts ; nor price of canal water ; nor house tax or marriage tax etc. Neither receive salary of the collectors from the cultivators nor remuneration of weighing or measuring or cutting ; nor burden them with the supply (of Wheat) for the Caliph or for his hospitality ; nor receive extra amount over and above the rent from them by deceitful means ; nor any other burden of this kind be placed on them besides share of the produce (in rent) as explained by us earlier."¹

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help in the building of a house, or cleaning a house, or doing its repair, or to build the walls of a garden and similar other jobs; even the inclusion of any of these things in the conditions of the contract, renders it null and void."¹

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to the cultivator, thereby gaining further advantage at the cost of the cultivator.

Islam made all such contracts of cultivation null and void, as explained by a Muslim jurist in the following words: "This practice of our age—that land is given on cash tenancy on the condition that all labour and capital required for improvement of land (besides cultivation) and the cost of digging canals through the land will be borne by the cultivator—is false and therefore illegal."¹

(f) **Sale of Agricultural Implements** : If the cultivators, owing to diminution of produce, or natural calamities, or to any other good reason, could not pay the fixed rent, the collectors and the landlords auctioned and sold their agricultural implements, ploughs, cattle, carriages and other essential goods to get their rent. This practice rendered the cultivator totally helpless and destitute, with the consequence that he was unable to work and raise the next crop.

This practice was declared naked oppression and therefore forbidden by the Caliphate. Even though rent was an obligatory payment on the cultivator, the collectors and the landlords were not permitted to auction his agricultural implements etc. to receive their dues from him, because it was likely to deprive him of his means of livelihood which was under no circumstances permissible. Once Caliph Ali severely reprimanded the governor of Akbarai regarding the collection of rent. Ali told him in front of the cultivators to collect every penny but in private said: "Look! When you reach there, neither sell their summer or winter clothes; nor their daily food articles; nor their cattle; nor beat them; nor make them stand on one leg (as was customary in those countries under the previous Governments); nor receive or take any thing from their essential household utensils in payment of rent (or land revenue)."¹

In other words, the cultivators were given sufficient time

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until they were able to pay their rent easily and without inconvenience.

(g) **State Lands** : It was a common practice in the pre-Islamic days that the big landlords would take state lands (اراضى خالصه), which were lying uncultivated (افتاده) but quite fertile, as grazing lands on payment of a nominal tax or free of charge. They put fences round those grazing fields for their personal use and did not allow the poor cultivators to use them. This practice deprived them from the fodder for their cattle and caused great hardships to them.

Islam stopped this tyrannical custom and made it illegal for any one to deprive the public from the use of grazing fields. The Holy Prophet once said:¹

"Fencing the grazing lands or reserving it (حمى) is permissible to none but Allah and His Prophet (i.e., the State); in other words there could be only state grazing lands but no private grazing fields."

Commenting on this Hadith, Shah Wali Ullah of Delhi remarks: "I say when the custom of Hima (حمى) was the cause of hardship to the people and repugnant to the common good, the Holy Prophet declared it illegal."²

And Umar declared that if, owing to scarcity of rainfall, or to any other reason, there was shortage of natural grass and people's cattle were deprived of fodder, then State Hima (حمى) should be kept open for the benefit of the people. The declaration of Umar runs as follows:³

"Zaid bin Aslam reports from his father that he said: "I was with Umar when he made his former slave, Hana, the watch-keeper of the state grazing land and said: O Hana, Beware! Keep yourself safe from the people and beware of the curse of the oppressed for it is accepted by God. Allow the owners of herds of goat and other cattle into the state grazing land in

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2. *Hujjat-Ullah-al-Baligha*, Vol. II, P. 104.

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order that they may graze their cattle. And don't care for the cattle of Othman bin Affan and Ibn Auf for even if their cattle die, they can make their living from the gardens of dates and cultivation of land in Madina ; but, if the cattle of those poor herdsmen die (for lack of fodder), they will come crying and weeping for help. O Amir-al-Momineen ! O Amir-al-Momineen Help ! help ! Therefore it is easier for me to allow them to benefit from the grass and water of the grazing land than to put pressure on the amount of Bait-al-Mal (to provide them with finances to buy new cattle)."

(h) **Natural Grasslands :** Another harmful custom was that the big landlords took possession of natural grasslands, trees, ponds and fields and did not allow others to benefit from them. This practice was very injurious to the common good of society, especially to the poor cultivators.

Islam stopped this practice as well and declared all such free things as common land and did not grant any right of private property to any one. Abu Hurairah reports from the Holy Prophet who said :

"Don't stop people from using surplus water in order that you may have an excuse to stop them from using surplus grass."¹

And it is reported by Abu Daud that all the Muslims are equal partners in water, grass and firewood. Some reports of Siha add salt to the above-mentioned list of free goods and in some reports there is a severe warning of God's displeasure and wrath to those who withheld such things from other people.

In fact, Islam stopped all such practices which were harmful to the interest of the cultivator and introduced a just and equitable system beneficial to them.

Welfare of the Cultivator :

A number of steps were taken by the Caliphate to improve the conditions and increase the welfare of the cultivator. We summarise below some of the important measures adopted by the

1. Bukhari, Vol. I, op. cit., P. 527, No. 2172.

Caliphate for the welfare of the cultivators :

(1) **Remission of Land Revenue (and Rent) :** If any land, owing to flooding, or draught, became uncultivable or its crop was destroyed by natural calamities, its *kharaj* (i.e., rent) for that year was remitted ; and if the crop was damaged, the remission was in proportion to the damage to the crop. This applied to cash as well as share tenancy contracts.

The author of *Kanz* writes : "If the cultivators' land is drowned in flood water or is rendered uncultivable owing to draught or its crop is destroyed by some natural calamity, in all these cases the *kharaj* (i.e., rent) of their land will be remitted."¹

(2) **Financial Help from the Treasury :** If any cultivator became unfit for cultivation (as a result of old age or other causes), or was involved in any financial difficulties, or his crop was damaged by any calamity, he was provided financial assistance from the State Treasury and was also given agricultural implements and seeds etc.

(3) **State Help in the Rehabilitation of Barren Lands :** The cultivators were provided every possible facility in the rehabilitation of barren lands. The Government was responsible for removing all the possible obstacles in this connection. If there were no funds in the *Bait-al-Mal* to provide free aid to the cultivators for this purpose, then they were given loans (free of interest) ; if this was not possible, then every thing possible was done to improve their financial condition in various forms, e.g., rich people were asked to help them, or new tax was levied, or other alternative means were considered to help the cultivators. In short, all the possible measures were adopted to assist the cultivators in their financial difficulties. It was in fact the primary duty of the State to help them with all the possible means at its disposal to rehabilitate new barren lands.

(4) **Full Compensation for Damage by Officials :** If the

1. *Kanz* with commentary of *Behr-al-Raiq*, Vol. V, *Bab-al-Kharaj*, P. 117, quoted by Hifzur Rahman, op. cit., P. 211.

Officers of the Government were in any way responsible for the damage or loss of crops, the cultivators were paid full compensation for the damage or loss from the *Bait-al-Mal*. It is reported that once a cultivator came to *Umar bin Abdul Aziz* and told him that Syrian army had destroyed his crop. The Caliph paid him ten thousand *dirhams* in compensation from the State Treasury.

(5) *Payment of Rent in Kind* : Under certain circumstances, to avoid inconvenience to the cultivator whatever crop was raised by him in his land was accepted in rent from him. Provision of such facilities to the cultivator is proven from the tradition of the Holy Prophet and his companions.

(6) *Various Facilities during Collection of Rent* : Settlement Officers were instructed and advised not to be harsh to the cultivators. Once the collectors told all that if they were to act on his advice, no one would pay a single penny in rent and they would come back empty-handed. *Ali* replied : "Even if you have to return empty-handed as you went (i.e., without receiving any rent) ; I am sorry for you ! We are commanded only to receive rent from the surplus wealth which they have got over and above their needs."¹

Governor *Adi bin Artat* once sent a letter to *Umar bin Abdul Aziz* complaining that rent could not be collected by gentle and mild methods. The Caliph replied : "How strange it is that you ask my permission for punishing people. Will I be able to protect you from the punishment of God and will my consent save you from the Wrath of God." Remember ! Whatever is due from them, take it if they pay it from their surplus over and above their needs ; otherwise leave it. By God ! It is far better for me that they should appear with their faults in the court of God than I should appear there after punishing them."²

1. *Al-Kharaj-le-Yayah*, P. 75, quoted by M. Taqi, op. cit., P. 285.

2. *Ibid.*, P. 119, quoted by M. Taqi, op. cit., pp. 285-286.

Chapter 9

DISTRIBUTION OF LAND

A study of the history of the Caliphate shows that the following six kinds of lands were generally given by the Caliphs to the people in the form of grants :

1. Conquered Lands ;
2. Contractual Lands ;
3. Lands Belonging to the *Muslims* ;
4. State Lands ;
5. Barren Lands ;
6. And Free (Natural) Lands.

1. CONQUERED LANDS

All property acquired in war, other than the fixed share of the king, belonged to the soldiers in the pre-Islamic days. The Holy *Quran* abolished this practice and declared all such property the possession of *Allah* in these words :

"They ask thee about the spoils of war. Say : All spoils of war belong to *Allah* and the Apostle." (8 : 1)

In this verse '*Anfal*' (انفال) means spoils of war. And the statement that "all spoils of war belong to *Allah* and the Apostle" implies that no individual soldier has a claim to any war booty : It is public property, to be utilized or distributed by the Government of an Islamic State in accordance with the principles laid down in the *Quran* and *Sunnah* of the Holy Prophet."¹

1. Dr. Asad, *The Message of the Quran*, Vol. I, P. 310, Note 1.

Principles of Distribution : Thus all the conquered territories in *Islam* were declared the property of *Allah* and His Apostle. They were neither the property of any particular person nor of any particular party. The Holy Prophet and, after him, his Caliphs, in the capacity of the Custodians of *Allah* (امین الله), distributed lands in the common interest of society among the following people :

- (i) Fighters ;
- (ii) Original Inhabitants ; and
- (iii) The poor people who had no means of livelihood.

As the defence of the country and the protection of the people was in the hands of fighting men, who, in the beginning had no fixed salary, they were given a share of the land and other property acquired in war to enable them to maintain their families. It should be remembered that the fighters were given a share only from the spoils of war (غنیمه) which they had fought. They were not given any share from the land (or property) acquired without war (فی) which was generally returned to the original inhabitants. Besides, this share was given to them only when they were unable to support themselves, and was discontinued or taken back when they were able to support themselves.

The Holy Prophet left all the conquered lands of *Khaiibar*, excepting those whose owners were killed or had run away during fighting, with the original inhabitants. Some lands were distributed among the *Muhajirin* and the poor *Ansar* who had no means of livelihood.

Second important principle which governed the distribution of the conquered lands during and after the time of the Holy Prophet was the common good of society. The lands acquired in war were disposed of in a manner most conducive to the general welfare of the people. The Caliphs maintained the tradition of the Holy Prophet and disposed of the conquered lands acquired by fighting (غنیمه) and without fighting (فی) in the best interest of community. These lands were generally left with the original inhabitants, through sometimes certain lands (belonging to the enemies who were either killed in fighting or ran away)

were given to the deserving soldiers but these causes were very few and exceptional as will be explained in another section.

It may, however, be pointed out that both types of lands mentioned above declared the property of *Allah* and His Apostle and, in consequence, the State enjoyed vast powers in matters of administration and distribution of these lands. The *Muslim* jurists have argued about the powers of the State concerning the administration and distribution of these lands in the following words :¹

The Caliph has the right to distribute lands acquired in war (غنیمه) among those who have shared in other spoils of war ; or leave it in the custody of the whole *Muslim* community ; or distribute it, if he thinks it proper, among the original inhabitants or hand it over to other people having the name professional skill.

Whatever action was taken by the Caliph in matters of distribution of these lands was always in keeping with the best interest of the community. Land was left with the original inhabitants or distributed among the fighters, if common good of society was brought to be best served by this policy ; on the other hand, if it was considered more beneficial to the community to keep the land in the possession of the State, then the labourers were hired for cultivation and the produce distributed among the people.

Yahyah bin Adam explains the principle of distribution of these lands in these words :²

(i) The Caliph is in his right to distribute the land among the people and levy tax on them (as rent of land).

(ii) If he thinks appropriate, he may pay the expenses of cultivation from the treasury and in that case the position of the cultivator will be that of a labourer and all the produce will belong to the State.

(iii) The Caliph may if he thinks it in the best interest of

1. *Mukhtasar-al-Tahavi*, P. 167, quoted by M. Taqi, op. cit., P. 22.

2. *Al-Kharaj-le-Yahyah*, P. 22, quoted by M. Taqi, op. cit., 23.

society, give some land to any person or persons as a gift.

(iv) If any *Muslim* is not able to rehabilitate his land, the State may pay his expenses for the rehabilitation of such land and recover them from the produce. This applies to non-Muslim cultivators as well.

Whether land was distributed among the soldiers or given over to the original inhabitants. They all enjoyed right of transfer and sale of their property but no one was exempted from the State levy (i.e., rent). If such right was likely to damage the common good of society or personal right of the owner, the State had the full authority to limit any of the above mentioned rights for it was the guardian and the custodian of individual as well as social rights and privileges.

The Holy Quran : The Holy *Quran* has not fixed any definite form of administration or distributory of these lands but, after giving general directions, has left to the State to solve this problem in the best interest of society. The Holy *Quran* has given its directive regarding the conquered lands in the following words. The first verse mentions spoils of war (غنيمة) and the second properties acquired without fighting (ف):

(i) **Spoils of War (غنيمة) :**

"And know that whatever booty you acquire (in), one fifth thereof is for God and the Apostle, and for the near of kin, and the orphans, and the needy, and the wayfarer." (8 : 41)

According to this verse (as referred to earlier), "all spoils of war belong to God and the Apostle", i.e., are to be administered by the authorities of an Islamic State in the interests of the common weal. Most of the great Islamic jurists are of the opinion that whereas four-fifths of all spoils may either be distributed among these who actively took part in the war effort, or may be otherwise utilised for the welfare of the community, one-fifth must be reserved for the specific purposes enumerated in the above verse, including a share "for God and the Apostle" (which is obviously a metonym for a Government that rules in accordance with the laws of the *Quran* and the teachings of God's Apostle); this

latter share is to be used for the exigencies of State administration."¹

(ii) **Acquired without Fighting (ف) :**

"And whatever Allah restored to His Messenger from them, you did not press forward against it any horse or any riding-camel, but Allah gives authority to His Messenger against whom He pleases. And Allah is possessor of power over all things."

(59 : 6)

"Whatever Allah restored to His Messenger from the people of the towns, it is for Allah and for the Messenger, and for the near of kin and the orphans and the needy and the wayfarer, in order that it may not (merely) make a circuit between the wealthy among you. So take what the Apostle assigns to you, and deny yourselves that which he withholds from you. And fear God ; for God is strict in punishment." (59 : 7)

"(Some part is due) to the poor Muhajrin, those who were expelled from their homes and their property, while seeking Grace from God and (His) good pleasure and helping God and His Apostle. These it is that are the truthful." (59 : 8)

"And those who made their abode in Madina and had adopted the Faith—Show their affection to such as came to them for refuge, and entertain no desire in their hearts for things given to the (latter), but give them preference over themselves, even though poverty was their (own lot), And those saved from the niggardliness of their own souls,—they are the ones that achieve prosperity." (59 : 9)

"And those who came after them say : "O Lord ! forgive us, and our brethren who came before us into the Faith, and leave not, in our hearts, hate against those who have believed. Our Lord ! surely Thou art Kind, Merciful." (59 : 10)

The well-known commentator *Hafiz Abu Bakr Jassas* has pointed out one important point in these verses of the Holy *Quran* which is summarised below : In the above-mentioned verses, mention of the Apostle after God seems to point out that the Apostle, in

1. Dr. Asad, *The Message of the Quran*, op. cit., Vol. I, P. 320, Note 41.

society, give some land to any person or persons as a gift.

(iv) If any *Muslim* is not able to rehabilitate his land, the State may pay his expenses for the rehabilitation of such land and recover them from the produce. This applies to non-Muslim cultivators as well.

Whether land was distributed among the soldiers or given over to the original inhabitants. They all enjoyed right of transfer and sale of their property but no one was exempted from the State levy (*i.e.*, rent). If such right was likely to damage the common good of society or personal right of the owner, the State had the full authority to limit any of the above mentioned rights for it was the guardian and the custodian of individual as well as social rights and privileges.

The Holy Quran : The Holy *Quran* has not fixed any definite form of administration or distributary of these lands but, after giving general directions, has left to the State to solve this problem in the best interest of society. The Holy *Quran* has given its directive regarding the conquered lands in the following words. The first verse mentions spoils of war (غنيمة) and the second properties acquired without fighting (ف):

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his capacity as Caliph (i.e., as the head of the *Muslim State*), has the right to distribute and administer all property according to the needs and demands of the time in the best interest of the community. The words¹ "So take what the Apostle assigns to you, and deny yourselves that which he withholds from you," in fact, refer to this fundamental truth. This is confirmed by the statement of *Jabir* who said that the Prophet spent one-fifth of the acquired property among the most deserved people in the best interest of society and that he did not confine it only to those who are mentioned in this verse. In other words, the five shares mentioned in the Holy *Quran* are merely to indicate and explain briefly and not limit and specify, the various ways of public good.

In fact, it was in the light of these verses of the Holy *Quran* that *Umar*, in spite of great pressure from certain illustrious companions of the Holy Prophet, did not distribute lands of Syria and Iraq among the Fighters. And thereafter all the conquered lands were left in the hands of the original inhabitants and were not distributed.

Imam Abu Yousuf, commenting on this decision of *Umar*, says: "This decision of *Umar* not to distribute the lands of Syria and Iraq was the result of sheer Divine assistance and due to his seeking complete guidance from the Book of God and in it lay the welfare of the country and the community."²

And *Yahyah bin Adam* argues like this: "The problem of the conquered lands depends on the right decision of the Caliph (with his council of advisors). If he thinks proper, he may distribute it among the fighters, or leave it with the original inhabitants because the Holy Prophet distributed some lands and the others he did not."³

According to *Abu Ubaid*, "The Holy Prophet, acting on the spoils of war verse (آية الغنيمه), distributed some lands of *Khaibar*;

1. *Ahkam-al-Quran*, Vol. III, P. 55 and 76, quoted by M. Taqi, op. cit., P. 26.
2. *Kitab Al-Kharaj*, op. cit., P. 167, No. 102.
3. *Al-Kharaj-le-Yahyah*, P. 18, quoted by M. Taqi, op. cit., P. 27.

and *Umar*, acting on the verse *Fai* (آية في), did not distribute the lands of Syria and Iraq."¹

And further on he says that these two decisions — of the Holy Prophet to distribute and of *Umar* not to distribute the conquered lands — are proved by almost unbroken chain of events since the days of the Holy Prophet.

All these statements show firstly that the State had vast powers of administration and distribution of these lands and other properties in the best interest of the people; and secondly, there was no fixed form of administration of distribution of the conquered lands in the time of the Caliphs but any form suitable and conducive to the common good of society was adopted by the Islamic State. In short, the general good and welfare of society was regarded the basis of administration and distribution of the conquered lands during the time of the Holy Prophet and his Caliphs.

Actual Distribution of the Conquered Lands :

Now we will discuss the actual distribution of the conquered lands during the times of the Holy Prophet and his Caliphs.

(A) **During the Time of the Holy Prophet :** The Holy Prophet, as explained earlier, distributed some conquered lands entirely among the fighting men and the poor *Muhajirin* and the *Ansar* in order to enable them to have some means of livelihood; some lands were partially distributed and partially left with the original inhabitants; and some were not distributed at all, but were left entirely in the hands of the original inhabitants.

(1) **Banu Nazir :** The community of Jews of *Banu Nazir* lived in *Madina* and they all left their land and property to the *Muslims* without any fighting, as described in the following verse of the Holy *Quran* :

"It is He Who got out the unbelievers among the people of the Book from their homes at the first gathering (of the force)."

(59 : 2)

1. *Kitab-al-Amwāl*, pp. 460-461, quoted by M. Taqi, op. cit., P. 27.

When they left *Madina*, all their land was distributed by the Holy Prophet among the *Muhajirin* who had left their properties in *Mecca* and had come to *Madina* penniless and without any means of livelihood. A few of the *Ansar*, who were poor and had no means of living, were also given some land of *Banu Nazir*.

When the *Muslims* occupied the lands of *Banu Nazir*, the Holy Prophet gathered together all the *Muhajirin* and the *Ansar* and addressed the latter in these words: "Your brethren *Muhajirin* had come here leaving all their property and wealth in *Mecca* and have nothing to support them. If you so desire, the properties belonging to *Banu Nazir* and your personal properties be mixed together and distributed among you all; or keep your own properties with you and, permit me to distribute the other properties (taken from *Banu Nazir*) among the *Muhajirin* (who have no means of livelihood)."¹

The *Ansar* replied: "O Prophet of God, You may distribute all this property among the *Muhajirin* and any thing from our personal property that you may so desire; you have the sole authority to do as you please."

Yahyah bin Adam, writing about *Banu Nazir*, says that: "The Holy Prophet distributed the property of *Banu Nazir* among the *Muhajirin* and a few *Ansar*."²

"It should be noted that *Muhajirin* in general did not receive any share of this property: it was only to the poor among them that something was given for maintenance, the reason for which is clearly stated in the verse viz., "they had lost every thing and had to leave their homes as well as property." (59: 8)

It was therefore necessary that the *Muhajirin*, who had lost all their wealth and homes and were still so poor that they could not carry on any business of their own, were to receive some thing from what the *Banu Nazir* had left, all of which formed part of the public treasury."²

It appears from some traditions that the properties of *Banu*

1. *Al-Kharaj-le-Yahyah*, P. 34, quoted by M. Taqi, op. cit. pp. 33-34.

2. M. Ali, *Translation of the Holy Quran*, P. 1046, Note 2478.

Nazir were the personal property (خالصة) of the Holy Prophet. This merely means that the Holy Prophet, as the Head of the Islamic State, was the custodian and trustee of those properties and distributed them according to the needs of the time in the best interest of the community.

(2) *Banu Quraiza*: The Jews of *Banu Quraiza* lived in *Madina* and their lands were also distributed among the *Muhajirin* and the *Ansar*. Perhaps, the following verse of the Holy *Quran* mentions this incident:

"And He made you heirs to their land and their dwellings and their property." (33: 27)

Muamar says that he enquired from *Zahiri* whether *Banu Quraiza* had any lands and he replied in affirmative, but added that the Holy Prophet distributed all their property among the *Muslims*.¹

(3) *Khaibar*: When the Jews of *Khaibar* were defeated, they requested that their lands be left with them and that they would cultivate the lands and share the produce half and half with the *Muslims*. The Holy Prophet consented to their request and left their lands with them on the condition that they would cultivate their lands and share the produce with the *Muslims*. This was made clear to them that the agreement would be valid so long as they did not do anything contrary to the general welfare of the *Muslims* or anything that might disturb the peace of the land. If either of the conditions was broken, the Caliphate would be within its right to disown them from the possession of those lands.

However, some land of *Khaibar*, whose owners had either fled away or were killed during fighting, was distributed among the fighters.

(4) *Wadi-al-Qura*: The inhabitants of *Wadi-al-Qura* were treated in similar manner and their lands and gardens were left with them on the same conditions.

(5) *Mecca*: After the conquest of *Mecca*, all land and property of the inhabitants came under the ownership of *Allah* and

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2. M. Ali, *Translation of the Holy Quran*, P. 1046, Note 2476.

His Apostle but was left with them and was not distributed. This policy was adopted at the time in the best interest of the community.

These and other conquered lands were administered in the best interest of the people. The Holy Prophet adopted that form of administration of the conquered lands which was thought to be the best for the people at the time.

(B) **During the Caliphate :** After the Holy Prophet, his Caliphs administered the lands in the light of the Holy *Quran* and the *Sunnah* of the Holy Prophet for the general good of society.

(1) **Iraq and Syria :** When Iraq and Syria were conquered, some companions of the Holy Prophet, including *Zubair*, *Abdur Rahman bin Auf* and *Bilal* were of the opinion that all the conquered lands should be distributed among the fighters as did the Holy Prophet distribute some of the conquered lands of *Khaibar* and the entire lands of *Banu Nazir* and *Banu Quraiza*. *Umar* held a different opinion. He wanted that all the conquered lands should be left with the original inhabitants under the administration of the Caliphate. The other members of the advisory council, namely, *Ali*, *Ibn Umar*, *Talhah*, *Muaz-bin Jabal* and *Othman* held the same opinion as *Umar*. After long discussion and deliberation, it was decided that, in view of the general good of society, all the lands of these countries should be left with the inhabitants under the administration of the Caliphate and should not be distributed among the fighters.¹

Umar in support of his opinion said : "How can I distribute these lands among you and leave nothing for those who would come after you. Do you want that its income should be confined to a limited section of the community and be inherited generation after generation by them. If I should do it, how would the boundaries of the State be defended and how would the needs of the orphans and the needy be met thereafter. I fear that some people would start quarrelling even over the distribution of canal water."¹

1. *Al-Kharaj-le-Abu Yousuf*, op. cit., pp. 158-168.

And *Ali* supporting the above views of *Umar* said : "The cultivators and the land should be left as before (i.e., without distribution), so that it might become an equal source of financial strength for all the people ; and if it was distributed among the fighters, wealth would remain confined to them (and would not be utilized for the general good of society)."¹

Abdur Rahman bin Auf and *Bilal* spoke against *Ali* and in support of distribution of land among the fighters in these words : "All wealth which God has given us through conquest must be distributed amongst us as did the Holy Prophet with the lands of *Khaibar*."¹

In the end, *Umar* quoted verses of *Fai* (ف) in support of his arguments (59 : 10) and said : "Have you not heard those who cast doubt on my decision ; perhaps they think I want to forfeit their rights. I regard encroachment upon anybody's rights as naked aggression. May God protect me ! God is my witness if I have committed any excess against them in anything or have now any intention of committing any aggression against them. The fact is that there is no land left after the conquest of the land of *Kisra* (i.e., Iraq and Syria), what income would support the administration of the Caliphate. This is sheer benevolence and blessing of God that He has given us authority over the wealth, lands and the properties of *Kisra*."¹

"I am of the opinion that land should be left in the hands of the original inhabitants in return for the payment of *Kharaj* (i.e., rent), so that this income could be utilized for the welfare of society and payment of salaries to the warriors."²

And it was finally decided that these lands should be left with the original inhabitants of Iraq and Syria.

(2) **Egypt :** After the conquest of Egypt, the companions of the Holy Prophet gathered together to decide upon the form of administration of the land. *Zubair bin al Awam* and his supporters were of the opinion that it should be distributed among the fighters. *Amr bin Aas* and others held the opinion

1. *Al-Kharaj-le-Yousuf*, op. cit., pp. 158-168.

2. *Ibid.*, P. 162.

that it should be left in the hands of the original inhabitants and should not be distributed among the fighting men.

As some of the members of the Advisory Council were opposed to *Amr bin Aas*, he thought it proper to refer the whole matter to the Caliph. In reply to *Amr bin Aas's* letter, *Umar* wrote: Received your letter and the decision of your Advisory Council. Do you want to usurp the allowances of the *Muslims* and salaries and the pensions of the warriors. Suppose I give order for the distribution of the land among the fighters, then what would be left to defend *Islam* for the *Muslims* who would come after."

"If I had not the worry of administration and problems of the common *Muslims*, the weak, the debtors and the soldiers and those who would come after, I would have ordered for the distribution of the land. Under the circumstances, I am helpless; therefore, leave this land so that it may be used for the benefit of the common *Muslims*."¹

And in the end, in view of the general good of society, it was decided that the land should be left in the hands of the inhabitants.

(3) **Other Lands:** Land in all the other conquered territories, including Persia, *Ahwaz*, *Kirman*, *Asbahan*, *Rey* etc., was also administered in similar manner and, in view of the general good of society, all the conquered lands were left in the hands of the inhabitants. According to *Abu Ubaid*:² "All the conquered countries fall into two categories: They were either conquered by force, e.g., lands of *Sawad*, *Al-Jabal*, *Al-Ahwaz*, Persia, *Kirman*, *Asbahan*, *Rey*, Syria, etc., or occupied through treaty, e.g., *Najran*, *Aala*, *Azrah*, *Duma-tal-Jandal*, *Fidak* and all those territories with which the Holy Prophet had entered into treaty. Similarly, all those lands which were occupied by force or through treaty by the Caliphate after the Holy Prophet e.g., *Balad Jazirah*, some towns of *Armenia* and *Khurasan*. The lands of all these countries were declared *Fai* (ف) during the time of the

Caliphate and the income was spent on the payment of grants to the people and allowances to their children and on other items of general welfare of the community.

To sum up, administration and distribution of lands during the Caliphate was carried on in the best interest of the people. The Caliphate adopted that form of administration of land which was considered to be the best for the people. It took every possible step to ensure that its policy did neither sacrifice common good for individual welfare, nor the latter for the former.

2. CONTRACTUAL LANDS

If the people of any country wanted to enter into contract with the Caliphate, it was most welcome and they were offered the protection of the State. The following verse of the Holy *Quran* mentions these contracts:

"And if they incline to peace, incline thou to it as well, and place thy trust in God." (8: 61)

After the contract, all their lands, trade, industry and other things were left as before without any interference. The Holy Prophet warned those, who broke the contract or did anything against it or oppressed the people, of punishment on the Day of Judgement.

Abu Ubaid, explaining the land contracts, says:¹ "You are not permitted to receive more than what was agreed in the contract, even if the contracting party has the ability to pay more." The Caliphate was so generous in these matters that it actually asked its officers to make reductions even in the amount agreed in the contract, if the cultivators could not pay it, or were in any sort of financial embarrassment. This is explained by *Abu Ubaid* in the following words: "If the contracting party is not able to pay the fixed amount (agreed in the contract), it must be reduced according to their ability and power to pay because the Holy Prophet had forbidden charging in excess but had not forbidden from reducing the amount of payment (in rent)."¹

1. *Kitab-al-Kharaj-le-Yousuf*, op. cit., pp. 158-168.

2. *Kitab-al-Amwal*, P. 513, quoted by M. Taqi, op. cit., pp. 58-59.

1. *Al-Amwal*, P. 143, quoted by M. Taqi, op. cit., P. 64.

Few Contracts :

Now we would like to describe some historical contracts to show how the Caliphate made contracts and then adhered to its conditions.

(A) During the Time of the Holy Prophet :

(1) **People of Najran :** The Holy Prophet made a contract with the Christian community of *Najran* that their properties and land would be left with them and protected, if they paid a fixed amount to the Treasury and maintained peace in the country. They broke the contract during the Caliphate of *Umar* and therefore transferred to other territory in Iraq and Syria where they were given lands and other facilities to enable them to rehabilitate there.¹

(2) **Fidak :** *Fidak* was a place in *Khaibar* which was in the possession of the Jews. When *Khaibar* was conquered, the Holy Prophet made a contract with the inhabitants of *Fidak* that half of the land and gardens would be left in their possession and the other half under the control and management of the Islamic State. The *Muslims* adhered to the conditions of the contract and provided complete safety and security to the lives and properties of the inhabitants.²

"The Jews broke the conditions of the contract and began to create disturbances during the Caliphate of *Umar*. Their lands were therefore purchased by the State and they were paid every penny for their property and transferred to another place. According to *Abu Ubaid* : "When *Umar* decided to transfer them to another place (as a result of their malicious activities), he sent an expert to determine and pay the price of their lands and gardens."³

The land of *Fidak* was a personal property (خالصة) of the Holy Prophet during his lifetime. After his death, it was not given over to his heirs partly because the property of the

1. *Kitab-al-Kharaj*, pp. 270-273.

2. *Ibid.*, op. cit., pp. 222-223.

3. *Bukhari & Muslim*, quoted by M. Taqi, op. cit., pp. 70-71.

Prophets does not go to their heirs but is spent on the general good of society ; and partly because *Fidak* was kept by the Holy Prophet in his capacity as Head of the Islamic State, and after him, it remained as such and its income was spent on the welfare of the people by the Caliph.

(3) **Aalah :** The Holy Prophet made a contract with the inhabitants of *Aalah* that they would pay a fixed amount per annum to the Islamic State and, in return, their life and property would be protected from their enemies. This contract was very strictly observed by the Holy Prophet and his Caliphs.¹

(4) **Suburb of Madina :** The Holy Prophet made many contracts with different tribes who lived in the suburbs of *Madina*. All their properties and lands were left with them and protected from their enemies.¹

(5) **Teemai :** The inhabitants of *Teemai*, a place near *Madina*, were very much impressed by the treatment of the *Muslims* to the other neighbouring tribes and therefore they requested the Holy Prophet to make similar contract with them. As a result, they agreed to pay a fixed amount per annum to the Islamic State and their properties and lands were left with them and protected from their enemies. The Caliphate remained responsible for the safety of their life and property and never charged anything in excess of the agreed amount.¹

(B) **During the Caliphate :** After the passing away of the Holy Prophet, his Caliphs made many contracts with the inhabitants of various towns and territories and very strictly observed the conditions of the contracts. They invariably left the lands and properties of the contracting people in their possession and never broke their promise with any of them. *Umar*, the second Caliph, was so conscious of his duty to the contracted party that he never permitted any officer of the State to commit any excesses against them, especially the people with whom he had made a contract. His fear of God and his sense of responsibility is reflected from these words : "If a dog were to die on the bank

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(2) **Fidak :** *Fidak* was a place in *Khaibar* which was in the possession of the Jews. When *Khaibar* was conquered, the Holy Prophet made a contract with the inhabitants of *Fidak* that half of the land and gardens would be left in their possession and the other half under the control and management of the Islamic State. The *Muslims* adhered to the conditions of the contract and provided complete safety and security to the lives and properties of the inhabitants.²

"The Jews broke the conditions of the contract and began to create disturbances during the Caliphate of *Umar*. Their lands were therefore purchased by the State and they were paid every penny for their property and transferred to another place. According to *Abu Ubaid* : "When *Umar* decided to transfer them to another place (as a result of their malicious activities), he sent an expert to determine and pay the price of their lands and gardens."³

The land of *Fidak* was a personal property (خالصة) of the Holy Prophet during his lifetime. After his death, it was not given over to his heirs partly because the property of the

1. *Kitab-al-Kharaj*, pp. 270-273.

2. *Ibid.*, op. cit., pp. 222-223.

3. *Bukhari & Muslim*, quoted by M. Taqi, op. cit., pp. 70-71.

Prophets does not go to their heirs but is spent on the general good of society ; and partly because *Fidak* was kept by the Holy Prophet in his capacity as Head of the Islamic State, and after him, it remained as such and its income was spent on the welfare of the people by the Caliph.

(3) **Aalah :** The Holy Prophet made a contract with the inhabitants of *Aalah* that they would pay a fixed amount per annum to the Islamic State and, in return, their life and property would be protected from their enemies. This contract was very strictly observed by the Holy Prophet and his Caliphs.¹

(4) **Suburb of Madina :** The Holy Prophet made many contracts with different tribes who lived in the suburbs of *Madina*. All their properties and lands were left with them and protected from their enemies.¹

(5) **Teemai :** The inhabitants of *Teemai*, a place near *Madina*, were very much impressed by the treatment of the *Muslims* to the other neighbouring tribes and therefore they requested the Holy Prophet to make similar contract with them. As a result, they agreed to pay a fixed amount per annum to the Islamic State and their properties and lands were left with them and protected from their enemies. The Caliphate remained responsible for the safety of their life and property and never charged anything in excess of the agreed amount.¹

(B) **During the Caliphate :** After the passing away of the Holy Prophet, his Caliphs made many contracts with the inhabitants of various towns and territories and very strictly observed the conditions of the contracts. They invariably left the lands and properties of the contracting people in their possession and never broke their promise with any of them. *Umar*, the second Caliph, was so conscious of his duty to the contracted party that he never permitted any officer of the State to commit any excesses against them, especially the people with whom he had made a contract. His fear of God and his sense of responsibility is reflected from these words : "If a dog were to die on the bank

1. M. Taqi, op. cit., pp. 72-79.

of river *Farat*, *Umar* would be questioned on the Day of Judgement about it."¹

(1) **Damascus** : During the Caliphate of *Umar*, when Damascus was conquered, *Khalid bin Waleed* made a contract with the inhabitants of that town and left their lands and property in their hands. And *Umar* took personal responsibility to guarantee the safety of their life and property. According to *Abu Ubaid*, *Umar* said : "I stand security for the safety of their life, property and houses of worship."²

(2) **Inhabitants of Jazira** : *Ayaz bin Ghanum* made a contract with the people of *Al-Jazira* and left their lands and properties in their possession. In the words of *Abu Ubaid*, *Umar* said : "I take responsibility for the safety of their life, property, children, wives, cities and grinding mills, so long as they pay what is due from them under the contract."

(3) **Jerusalem** : *Umar* wrote the following contract for the people of Jerusalem : "This proclamation is made by *Umar*, the servant of God and the commander of the Faith."³

"It accords protection to people of *Eilia* (Jerusalem) and guarantees full security to their lives and properties, their churches and crosses, their sick and healthy and all their co-religionists.

"Their churches shall not be converted into dwellings, neither shall they be demolished, nor their precincts or crosses violated. There shall be no compulsion in matters of religion and none shall be persecuted or discriminated against."

"And it is the duty of the people to pay what is due from them for the protection of their life and property. God, His Prophet, the Caliphs and all the faithfuls stand security for this contract."

During the Caliphate, all the contracts were fully honoured

1. M. Taqi, op. cit., P. 88.

2. *Al-Amwal*, pp. 207-208, quoted by M. Taqi, op. cit., P. 91.

3. *Tarikh Tabri*, P. 26 and *Tarikh-e-Millat*, P. 176, quoted by M. Taqi, op. cit., pp. 91-92.

and their conditions strictly observed, so long as the contracting people observed their part and did not break any of its conditions. The people of *Najran*, *Fidak* and *Khaibar* broke the contract and were therefore transferred to another part of the Islamic State but were paid every penny for their property by the Islamic State. According to *Imam Abu Yousuf*, the reason for the transfer was that the Caliphate was informed by reliable sources that they were disturbing the peace of the land and endangering the lives and properties of the people."¹ And, according to *Abu Ubaid*, their excesses and disturbances had increased during the Caliphate of *Umar* and were therefore, transferred to another part of the Islamic State.²

In spite of all their excesses and mischievous activities, they were treated very kindly by the Islamic State and paid full compensation for their properties and provided all the facilities to rehabilitate in the new countries.

3. LANDS BELONGING TO MUSLIMS

The lands of the territories whose inhabitants embraced *Islam*, were treated like those of the conquered countries. They were declared the property of *Allah* and His Apostle and were left with the original inhabitants under the administration of the Caliphate. They did not have to pay anything except *ushr* (عشر) to the Islamic State. The principle which governed these territories was stated by the Holy Prophet in these words :³

"A nation which embraces *Islam*, secures its life and property."

This principle applied to all *Arab* as well as non-*Arab* lands, as explained by *Imam Abu Yousuf* in these words : "If inhabitants of any land embraced *Islam*, their lives became sacred ; all the property which they possessed at the time would remain with them. And their lands would be left in their possession and would be treated as *ushri*. When the inhabitants of *Madina*

1. *Kitab-al-Kharaj*, op. cit., pp. 223 and 274-277.

2. *Al-Amwal*, P. 99 and 189 quoted by M. Taqi, op. cit., P. 93.

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became *Muslims* all their belongings were left with them. The same treatment was meted out to the people of *Taif* and *Bahrain*. And whoever from amongst the *Beduin* embraced *Islam* was allowed to keep his land and springs in his possession and no one was permitted to do any thing to infringe upon his right of ownership. The inhabitants, however, had no right to stop anyone from the use of grass ; or the animals and the shepherds from drinking water ; or animals and camels from entering their lands."¹

"Their lands were treated as *ushri* and remained as such and they had the right of inheritance, and purchase and sale of their property."¹

Imam Abu Yousuf has explained the policy of the Caliphate in these matters in the following words : "Similarly, the people of any town and region, who embraced *Islam*, would remain the owners of their lands and all other belongings (as before)."¹ And, in the words of *Abu Ubaid*, "A land whose inhabitants embraced *Islam*, was left in their possession and was treated as *ushri*. The people enjoyed the right to benefit from their lands and properties and use them like that of *Madina*, *Taif*, *Yemen*, *Bahrain* etc."²

There is, however, one point regarding the *Muslim* lands which needs clarification. It is this : when some one embraces *Islam*, his responsibility to *Allah* and His Apostle becomes much greater. As a member of the *Muslim* community, he is expected at times to be ready and willing to sacrifice everything for the service of *Islam* and the *Muslims*. As such, a *Muslim* state has a greater right on the lands and properties of the *Muslims* than that of its non-*Muslim* members.

Whenever the need arose, the Caliphate took over, sometimes by moral persuasion and sometimes by legal measures, the lands of the *Muslims* for the general benefit of the community. We give below a few instances of this nature, where the land belonging to the *Muslims* was taken over by the Caliphate for

1. *Kitab-al-Kharaj*, op. cit., pp. 240-242.

2. *Al-Amwal*, P. 512, quoted by M. Taqi, op. cit., P. 98.

the general use of community :

(1) *Lands of Madina* : The people of *Madina* gave their lands willingly to the Caliphate for the benefit of the community. In the beginning, the *Muslim* inhabitants of *Madina* handed over some of their lands to the Holy Prophet for shortage of water, so that they could be used for the benefit of the *Muslim* community. *Ibn Abbas* describes this incident in these words :¹ "When the Holy Prophet came to *Madina*, the inhabitants gave all those lands, where water could not reach easily to the Holy Prophet and gave him full authority to do whatever he thought proper with it."

(2) *The Crown Lands* (خالصة) : Some of the State land was given by *Uman* to the people of *Bajeela* who kept it in their possession for two or three years. Later on, when the Caliphate wanted to take it back for the benefit of the *Muslim* community, they returned it without any hesitation.

Many instances can be given to show that the Islamic State had the full authority and power to take over, whenever it so desired, the lands of the *Muslims* for the general use of the community. But at the same time, it was also responsible to protect the right of the individuals, so that their interest would not suffer with the advancement of social welfare.

4. STATE LANDS (ارض الخالصة)

All the lands which were neither occupied nor owned by any person were declared as the State lands by the Islamic State. And, in view of the common good of society, the Islamic State usually gave grants of the State lands to the deserving people. The State grants, which were called *Qithai* (قطاع) were given in two forms. Firstly, the land was given for rehabilitation to those who themselves cultivated it. Secondly, it was given to those persons who were doing some useful service to the community and therefore could not cultivate it themselves. They gave it for cultivation to another person and shared with him either its income or its produce. The Caliphate gave grants of

1. *Al-Amwal*, P. 282, quoted by M. Taqi, op. cit., P. 99.

the State lands in both these forms.

These grants of the State lands were of different kinds : Sometimes the recipient of the grant was given the right to benefit only from the land without having the right of ownership or of sale. And sometimes he was given the ownership of the land as well as the right to benefit from its fruit. In this case, he enjoyed all the rights of ownership, inheritance and sale etc. But none of the forms of these grants was exempted from State tax and, in fact, the Caliphate had more control over these grant lands than other lands. In view of greater State control over these lands, Umar took back from some of the illustrious companions grants of land which were given to them by the Holy Prophet himself. It may, however, be pointed out that there was no other motive but the general good of society in taking back these grants of land. Just as the Holy Prophet granted these lands in the best interest of society, in the same way, Umar took these back for the general welfare of the community. The interest of the community was foremost both in the mind of the Holy Prophet when he granted those lands and of Umar when he took back those grants.

The Nature of Grants of State Lands :

The State lands were generally uncultivable and barren and needed rehabilitation. The Islamic State gave grants of these lands to those people who would rehabilitate them and make them useful for the community. This is shown by the fact that grants (قطائع) were mostly given to the people for rehabilitation.

The Caliph could grant any piece of land to anyone, who he thought, had the ability and power to rehabilitate it. According to *Shah Wali Ullah* of Delhi, the Caliph had the authority to grant lands (قطائع) ; if he wished, he could make the recipient owner of land and if he did not think it proper to make him the owner of land, he could make him only beneficiary of its fruit.¹

It seems clear from the study of *Hadith* and other historical statements that the Caliphate gave these grants (قطائع) from three types of lands :

1. *Musawwa*, P. 405 quoted by M. Taqi, op. cit., P. 116.

(i) *Barren Lands* : Barren lands which were never cultivated and rehabilitated before and the people, in view of their barrenness, would have never dared to rehabilitate them. The Caliphate distributed these lands among the deserving people in order to rehabilitate them and make them cultivable. Land given to Zubair in *Naqbah* was of this nature.¹

(ii) *Waste Lands* : Waste lands were cultivable but, for one or another reason, were not cultivated. This included all those lands which lay waste or uncultivated owing to the destruction of the inhabitants and there was no one to rehabilitate them. It also included those lands of *Madina* which, owing to the difficulty of irrigation, were given over to the Holy Prophet and he had distributed them among the *Muslims* for cultivation.² The Holy Prophet gave grant of *Wadi Aqiq* from these very lands.

(iii) *State Lands* : This included all lands of the conquered territories which were declared "the State lands" (ارض الخالصه) for the Caliphate. These lands were of various types :

- (a) Lands whose owners had died in the war.
- (b) Lands of people who had fled during the war.
- (c) Royal lands which were state lands (خالصه) and reserved for the personal use of the ruling classes.
- (d) Lands belonging to the royal families and senior officers of the State.
- (e) Lands which lay around lakes, rivers and forests.

These and all other lands which were owned by a few dignatories but after the conquest, there was no one to claim or cultivate them. All such lands were declared State lands (خالصه) for the Caliphate to be used for the benefit of the people.

Abu Ubaid, after giving details of the State lands, says : "The afore-mentioned State lands (خالصه) were left without any occupant and without anyone who could rehabilitate them. Therefore these lands were entrusted to the Caliphate and declar-

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ed as State lands (ارض الخالصه).¹

And *Imam Abu Yousuf* says that the position of these lands was like that property which belonged to no one and no one occupied them.²

It is, therefore, obvious that during the early Caliphate, grants (قطائع) were given only from those lands which were neither occupied by anyone, nor had any claimant or apparent heir; nor was there any sign of rehabilitation; nor were these lands which could not be legally given to any one (because of their social utility), e.g., grazing lands, forest, salt lakes etc.; nor was there any question of loss or damage to any one by the grant of these lands.³

Quite obviously there were two ways of dealing with these lands: (i) Either they could be left idle and uncultivated, thereby damaging the rights of the people; (ii) or they could be utilized for the benefit of the people. The Caliphate, in view of the general good of society, adopted the second method with regard to these lands. As a result of this policy, all barren and waste lands were rehabilitated and brought under cultivation during the early Caliphate.³

Conditions of Grants :

Grants of these lands were given to deserving people and not to every one who asked for it. The Caliphate scrutinized each case on its own merits and then accepted or rejected the request for a grant. The merits or demerits of each case were considered on the following grounds :

(i) **Social Benefit :** All grants were given in the best interest of the people and if, at any time, it was proved otherwise or more useful form of grant was found, they were taken back by the Islamic State. The purpose of these grants was obviously to obtain the maximum productivity and to increase the general welfare of the community. So long as this objective was achieved, the Caliphate did not feel the necessity of interference but,

1. *Al-Amwal*, P. 282, quoted by M. Taqi, op. cit., P. 118.

2. *Kitab-al-Kharaj*, op. cit., P. 236.

3. *Ibid.*, op. cit., pp. 236-238 and 242.

if it was neglected, or a better form of administration of the land was known which was more beneficial to the community, it had full authority to take it back.

A few instances are given below to show that these grants were taken back by the Caliphate when this action was considered to be in the best interest of the people :

A Grant by the Holy Prophet : The Holy Prophet had granted the whole of *Wadi Aqiq* to *Bilal bin Haris* but he could not rehabilitate a greater portion of it. *Umar* told him that the Holy Prophet had not given him that land that he would neither rehabilitate it himself nor let others to rehabilitate it. Therefore he was told to keep that part of land which he could rehabilitate and hand over the other to the Caliphate. Hearing this, *Bilal* said that he would never return the land given to him by the Holy Prophet, whether he rehabilitated it or not. *Umar* insisted on its return and at last, leaving aside what had been rehabilitated other land was taken back."¹

Umar took back the grant which was given by the Holy Prophet himself merely for the general benefit of society. He did not show any favour to the companion of the Holy Prophet and took back that part of the land which had not been brought under cultivation and was therefore considered a national loss.

Another grant by the Holy Prophet : The Holy Prophet had granted land to a person, *Umar* leaving the cultivated part in his possession, took back the other portion which had not been rehabilitated by him.²

People of Bajeela : The incident of the people of *Bajeela* is mentioned above. *Umar* had given them a part of the State land (خالصه) which they had cultivated for two or three years. When a new and better form of administration, more beneficial to the community, was found, the Caliphate without any hesitation took it back from them.

It seems thus obvious that under the early Caliphate, grants

1. *Al-Amwal*, P. 290, quoted by M. Taqi, op. cit., P. 119.

2. *Al-Kharaj-le-Yahyah*, P. 78, quoted by M. Taqi, op. cit., P. 120.

of land were given in the best interest of the public. The grants were left in the hands of the recipients so long as the above-mentioned purpose of the Caliphate was fulfilled. When another form of grant or administration was found more beneficial to the community, it was adopted without damaging, as far as possible, the personal welfare of the individuals.¹

Many instances can be cited from history when *Umar* and *Umar bin Abdul Aziz* found it necessary in the interest of the general good of society, they took back lands and properties from many *Muslim* dignatories under the common law of the land.

(ii) **General Welfare Work :** The grants were given to those people who were engaged in the general welfare work and could not earn their livelihood. Grants were also given to new converts to win over their hearts and to enable them to settle down. It often happened that the people after embracing *Islam* found themselves utterly helpless and dependant and had no means of obtaining their livelihood. The Caliphate gave grants of land to such people to enable them to earn their living. This policy of the Islamic State not only saved the newly converts from financial worries and helped them to live a more peaceful life but also gave the non-*Muslims* a chance to think and consequently to come into the fold of *Islam*.

(iii) **People's Ability and Need :** The grants of land were generally given according to the ability and need of people. The people possessing the necessary skill and ability were given top priority in the allotment of these grants ; but any other person, who was doing some useful service to the community and had no means of livelihood, could also be given a grant of land to enable him to make his living by giving it for cultivation to others. It was however necessary that the grant was of reasonable quantity to enable the recipient to earn his livelihood from it. *Shah Wali Ullah* of Dehli emphasises this point and says that the grants should be given in such quantity which could easily and conveniently be cultivated for earning one's livelihood. And

1. *Kitab-al-Kharaj*, op. cit., pp. 244-245.

he further argues that the Caliph should grant land according to the needs of the recipient."¹

Allama Badar ud Din Aini agrees that the Caliph should give grants from the property of God to those who have the ability and power to cultivate it.²

These statements clearly indicate firstly that no one should be given a grant of land more than his need ; and secondly that land could be given on rent when there is an urgent demand for it, or when the recipient is engaged in some useful service to the community and has no means of livelihood.

Main Categories of the Recipients of Grants :

There is sufficient evidence to prove that these grants were given neither for enhancing influence of certain people nor for creating a class of idle landowners, nor for unjustly exploiting the tenant cultivators, but for increasing the general good of society by increasing the production of land. And there is absolutely no comparison between the grants given under the Caliphate and the modern Landlordism and the system of Zamindari.

To further elucidate our point, we would like to quote a few instances regarding the grant of land during the Caliphate. *Abu Bakr* gave a grant of land to *Talhah* but it had to be attested by other members of the Advisory Council which included the name of *Umar*. *Talhah* went to *Umar* to get his signature on this order but he refused to sign saying : "Do you want that all this land should be given to you and the others be deprived of it."

Thereafter *Talha* returned angrily to *Abu Bakr* and said : By God ! I don't understand, who is the Caliph, you or *Umar* !" *Abu Bakr* replied, *Umar* indeed. Thus in view of the opposition of *Umar*, this order was cancelled.

Abu Bakr gave a grant of land to *Aania*, who went to *Umar* to get his signature. *Umar* not only refused to sign but even tore the order. *Aania* came back to *Abu Bakr* and requested him

1. *Musawwa*, P. 205, quoted by M. Taqi, op. cit., P. 125 and *Musaffa* P. 405, quoted by M. Taqi, op. cit., P. 125.

2. *Aini*, Vol. VI, P. 36, quoted by M. Taqi, op. cit., P. 121.

for the second order but the Caliph told him : "By God ! I will not do that thing twice which *Umar* has rejected."¹

It seems very odd that *Umar* should refuse to sign and even tear the order of the Caliph, who was fully justified and within his right to give such grants because it was a proven fact of history that the Holy Prophet himself had granted lands to his companions during his lifetime. But a little thought will show that *Umar* did not really object to the grant itself, what he objected was unnecessarily large grants of land. In fact, both *Abu Bakr* and *Umar* gave grants of land for the general good of society but they took every reasonable precaution to see that it was a reasonable grant and was not likely to become a source of luxury for the recipient, or be left idle for lack of proper administration on his part. This caution was therefore necessary in the grants of land so that they were given only to the deserving people and in such quantities which could be rendered most useful and productive by the recipient for the community.

When *Umar* refused to sign, *Abu Bakr* realised that the grant was, in one way or another, against the best interest of society and therefore damaging to the main objective ; otherwise *Umar* would not have refused to sign. Therefore *Abu Bakr* cancelled his first order and rejected the plea for the renewal of the second.

It may be pointed out that there were many barren and waste lands at the time but few who could rehabilitate and cultivate them. It was, therefore, the most urgent problem for the Caliphate to bring these lands under cultivation. During the times of the Holy Prophet and his first Caliph the soldiers and other Government Officers had no fixed salaries. In the absence of any fixed salaries or allowances, this was the only practical way of compensating the people engaged in the defence of the country or in other social work. When *Umar* fixed the allowances and salaries of these people, all their lands which were not rehabilitated by them were taken back.

The Caliphate, in general, gave grants of land to the following categories of people :

1. *Al-Amwal*, P. 283, quoted by M. Taqi, op. cit., pp. 123-124.

(a) Those who had the ability and power to cultivate and rehabilitate the land ;

(b) The fighters and all those people who were engaged in the defence of the country and the public ;

(c) Those who were entrusted with some kind of social work ; and

(d) New converts to *Islam* were also given grants of land to win over their hearts and to enable them to settle down under changed conditions.

Grants of Land under the Caliphate : The fact that the grants were given to the deserving people who were either engaged in the defence of the country or in other useful and essential social work, partly to enable them to earn their livelihood, and partly to help in the rehabilitation of barren and waste lands, is shown by the following list of people who were given grants of land by the Holy Prophet and his Companions :

(i) The Holy Prophet gave grants of land to *Abu Bakr*, *Umar*, *Zubair* ;¹

(ii) The Holy Prophet gave a land to *Vial bin Hujr* in *Yamamah* ;²

(iii) Some other people of *Yamamah* were also given grants of barren land ;

(iv) The Holy Prophet gave houses to *Abdullah bin Masud* in *Madina* ;

(v) *Abu Rafey's* family was given a large tract of barren land in *Madina* ;³

(vi) A man called *Sulait* from amongst the *Ansar* was given a grant of land by the Holy Prophet ;⁴

(vii) The Holy Prophet gave a piece of land to *Abdur Rahman bin Auf* ;⁵

In order to make barren lands cultivable, the Holy Prophet

1. *Musnad Imam Ahmad*.

3. *Kitab-al-Kharaj*.

5. *Musnad Imam Ahmad*,

2. *Kitab-al-Amwal* & *Tirmizi*.

4. *Kitab-al-Amwal*.

proclaimed that all land belonged to God and human beings were His slaves. Whoever wanted to bring barren land under cultivation, had full authority to do so and the land would belong to him.¹

This system of grants continued after the Holy Prophet and many companions of the Holy Prophet were given grants of land, e.g., *Sa'd bin Waqqas, Abdullah bin Masud, Nafey, Khubab, Zubair, Sa'd bin Malik* etc.

And it was declared by the Caliphate that whoever would bring any barren land under cultivation, it would belong to him.²

All these people who had received grants of land from the Caliphate were actually engaged in Public Utility Works and had spent all their lives and resources for the welfare of the community. Many of them had spent all their wealth and property in the service of *Islam* and the *Muslims* and after migration to *Madina*, had no means of livelihood. Besides, there were many grant holders who were cultivators and who had benefited themselves and the Islamic State by bringing more lands under cultivation. There is not a single instance in the early Caliphate, which may show that these grants were a source of luxury for its recipients or helped in creating a section of people which lived on the labour of others. *Imam Abu Yousuf* describes the nature of the grants under the Caliphate in these words :

"These statements are sufficient evidence to prove that the Holy Prophet and his Caliphs had given grants of land to the people because they thought that this policy was in the best interest of the community at the time. The Holy Prophet had given grants to the new converts to *Islam* partly to win over their hearts, and partly to bring more lands under cultivation. Similarly the Caliphs had given grants to those people who were either engaged in the defence of the country, or in some public

utility work, or had proved their usefulness in other ways for the *Muslim* community and *Islam*."¹

To sum up, the grants of land were not given to the people under the Caliphate to enable them to enjoy a luxurious life of ease and comfort but were generally given to provide them with means of living so that they could fully spend their energies for the welfare of the community without any financial worries. The real object of these grants was the general good of society. So long as this objective was achieved, the Caliphate did not interfere in the administration of the grants ; but when it was found that the grant was damaging the common good of society, or infringing upon the right of any individual, the Caliphate had full authority to interfere to take it back. All the instances, mentioned earlier, where grants were taken back by the Caliphate, confirm our point of view.

5. BARREN LANDS

In the early Caliphate the following types of land were considered to be barren land :

- (a) Hard rocky or sandy land ;
- (b) Vast plains ;
- (c) Dry mounds ;
- (d) Land covered by bushes, or water-logging, or floods ;
- (e) Land destroyed through the changing of course by the rivers and hence rendered uncultivable ; and
- (f) All other lands around lakes, rivers etc., which could not be cultivated.

All such lands were declared barren lands by the Caliphate but everything possible was done to bring them under cultivation. In this connection the following letter of *Umar bin Abdul Aziz* to his governor is very revealing :

"Distribute all the available State land among the people and accept any tax (i.e., rent) from them relative to the nature

1. *Bukhari, Ahmad.*

2. *Kitab-al-Kharaj.* All quoted by M. Abul Ala Maudoodi, *Maslat-Milkiat-e-Zameen*, pp. 31-33 and 28-30. Also quoted by Imam Abu Yousuf, *Al-Kharaj*, op. cit., pp. 245-249.

1. *Kitab-al-Kharaj*, op. cit., pp. 244-249.

of the produce which they may be willing to pay to the Caliphate. If the land is very bad and needs more labour and capital, distribute it gratis (without any charge) among them. And if no one is ready for it, cultivate it with State expenses (but don't leave it idle)."¹

It may however be pointed out that these did not include lands which were near the towns and were required for the various needs of the townsmen, and were equally shared by them, e.g., grave-yards, grazing fields, forests, places reserved for herds etc. and also lands which were left around wells, tanks, springs etc., for the common use of the people.

Forms of Rehabilitation :

There were different forms in which the barren lands could be rehabilitated and brought under cultivation. One way of rehabilitation of such lands was with Government expenses. The Caliphate hired labourers on wages and spent capital from the Treasury for the cultivation of some of these lands which were not given in grants. In the words of *Yayah bin Adam* : "The Caliphate, if it thought proper, could cultivate these lands by spending money from the Treasury with the help of hired tenants."² In this form of cultivation, the tenant cultivator received the agreed wages and the Caliphate the total produce of the land.

Second form of rehabilitation of barren lands was to allow the cultivator to cultivate the land with his labour and capital and reap its fruit. In this case he was not given the right of ownership of the land for he had neither the right to sell nor to transfer it to others but only the right to benefit from its fruits.

Third form was this : The Caliphate could bestow the right of ownership of any piece of land upon any individual and allow him to rehabilitate it. The cultivator was given full right of ownership, including the right of sale, transfer and inheritance.

If the land was left uncultivated for some time after the

1. *Al-Kharaj-le-Yahyah*, P. 63, quoted by M. Taqi, op. cit., P. 151.

2. *Ibid.*, P. 22, quoted by M. Taqi, op. cit., P. 151.

grant from the Caliphate, the recipient of the grant could be disowned from its ownership. It was not compulsory or necessary in such cases to give him a period of three years for rehabilitation. When *Umar* found that the people were holding large tracts of land which they would not be able to rehabilitate, he declared that whoever rehabilitated his land would establish his right of ownership over it but mere holding land by possession without rehabilitating it would not be considered sufficient (ground) for claiming ownership of that land.¹

In fact, the purpose of the Caliphate was to bring all the barren land under cultivation so that the community could benefit from its produce. Obviously, this objective could be achieved only when the land was rehabilitated and made cultivable. This is why the Caliphate made this a condition of the ownership. The Holy Prophet explained the principle of ownership of such land in these words :²

"Land belongs to God and the human beings too. Whoever rehabilitates barren land, becomes its owner."

Time Limit for Rehabilitation :

Some people may have thought that, as the holder of land is given three years to rehabilitate his land, he cannot be disowned from it before that time ; and someone else cannot be rehabilitated on it during this period. This opinion is perhaps deduced from the statement that "The holder (owner) has no right after three years."³

This and similar other statements mean only this : that the holder, if required, may be given three years to rehabilitate his land, but it is not compulsory. Justice demands that the right of the individual should be honoured and respected, and, if it does not damage the social welfare, he should be given time to improve and rehabilitate his land ; and no other person be allowed to claim ownership to that land. But if unnecessary

1. *Al-Amwal*, P. 290, quoted by M. Taqi, op. cit., P. 153.

2. *Abu Daud*, quoted by M. Taqi, op. cit., P. 153.

3. *Kitab-al-Kharaj*, op. cit., P. 256.

delay in rehabilitation on his part is a cause of social loss and someone else is ready and capable of rehabilitating it, the Caliphate is, in its own right, justified to give him three years for rehabilitation when it can be brought under cultivation immediately without much delay. This is explained by the Muslim jurists in these words :

"Three years limit is based on the principle of fairness to the recipient of the grant but the law regarding the ownership of such lands is this : if someone else other than the owner is able to rehabilitate it before the expiry of three years, he will (be given the land for rehabilitation and will) become its owner."¹

6. FREE LANDS

All lands and things, which were not the result of anybody's labour or ability, were called free lands and were equally shared by all the people in the Islamic State. The following lands were regarded Free Lands by the Caliphate :

(a) **Grazing Fields** : In pre-Islamic days, big landlords and chiefs kept the national grazing lands for their own use and did not permit the common people to use them. Islam stopped this unjust custom and declared all the grazing fields as National property to be kept for the use of the people. The Holy Prophet announced this declaration in these words : "*Hima* (حمى) belongs only to Allah and His Apostle."² *Hima* (حمى) is that tract of land which is left unoccupied for the growth of grass and fodder and for the grazing of animals for the community. And no cultivation is done on this land.

Abu Ubaid says that it is unlawful to prohibit anyone from the use of free goods (like grazing fields), which are the common property of the people and are equally shared by them.³ *Allama Aini*, while commenting on the above-quoted *hadith*, says that the problem of this land is, in fact, the responsibility of the Caliphate.⁴ And according to *Shah Wali Ullah*, *Hima* (حمى)

1. *Fatawa Alamgiri*, Vol. IV, P. 167, quoted by M. Taqi, op. cit., p. 154.

2. *Bukhari*, Urdu edition, op. cit., Vol. I, P. 530, No. 2186.

3. *Al-Amwal*, P. 295, quoted by M. Taqi, op. cit., P. 156.

4. *Umda-tul-Qadri*, Vol. VI, P. 29, quoted by M. Taqi, op. cit., P. 156.

belongs only to *Bait-al-Mal*, i.e., the Caliphate.¹

Thus it seems that it is unlawful for anyone to keep *Hima* (حمى) for his own animals and not to let other people's animals graze in it. It belongs to Allah and His Prophet and the Caliphate. In other words, it does not belong to any one person but all the people who equally share in it.

The Holy Prophet declared *Naqi* in *Madina* as *Hima* (حمى), which was reserved for the grazing of horses belonging to *Muhajirin* and the *Ansar*. *Abu Bakr* proposed *Hima* (حمى) in *Rabza* for the camels received in charity and *Umar* in *Saref*. Every Caliph realized this need and made necessary arguments for public grazing lands for the use and benefit of the common people.²

(b) **Forests** : The forests were also equally shared by all the people and were not reserved for any particular person. The Holy Prophet kept the forests of *Dumat-al-Jandal* under the management of the Caliphate and after him, the Caliphs did not distribute the forests in the conquered lands among the fighters but kept them under State management.

(c) **Mines** : All lands containing mineral products, e.g., salt lakes, oil springs etc., which were not the result of any one's labour, were also kept under the management of the Caliphate. The Caliphate determined its form of benefit according to the need and expediency of the time and then provided opportunities to the people to make use of them.

Sometimes such natural sources of wealth were given to certain individuals by mistake but were taken back when the fact of their general usefulness was discovered by the Holy Prophet. The Holy Prophet once granted a piece of land to *Abyaz bin Hamal* in *Muarib* for rehabilitation but, afterwards, when it was known that it was a salt lake, the Holy Prophet took it back.³ This was because the Holy Prophet did not like that such sources

1. *Maswa, Sharae Muatta*, P. 405, quoted by M. Taqi, op. cit., P. 157.

2. *Bukhari*, Urdu edition, op. cit., Vol. I, P. 530, No. 2186.

3. *Al-Amwal*, P. 276, quoted by M. Taqi, op. cit., P. 158.

of wealth should become personal property of any one person as explained by *Abu Ubaid*: The Holy Prophet did not like this thing that only one person should benefit from it and the rest of the community be deprived of its use.¹

Allama Aini lays down a fundamental principle regarding the use of such things in these words: It is not permissible for any one to give grants (قطاع) of spring water and visible minerals, e.g., salt, ral, kerosene oil and other similar things (to any person or a group of persons) because the people are equal partners in them.² And *Abu-al-Hassan Mawardi*, after describing all these things, says: Just as it is not permissible for any one to give grants of land containing water to any individual (or group of individuals), similarly it is unlawful to give grants of these things because all the people equally share in them.³

To sum up, grazing fields, forests, salt lakes, kerosene oil and other similar things, which were commonly shared by people and were pure natural gifts, were kept under the direct management of the Caliphate. The form of their benefit and use were determined by the State according to the needs and requirements of the people.

Chapter 10

FORMS OF CULTIVATION

Cultivation of land can be done in two ways: Firstly, the owner of land may cultivate his own land and be the master of his own fate as well as of the fruit of his land. Secondly, he may give his land for cultivation to another person, i.e., the tenant and share either the produce of land with him or take cash from him for the use of his land. The owner of land may either be a state or an individual who gives land to a tenant for cultivation. The tenant cultivator pays either a share of the produce or cash for the use of land to the Government or to the individual landlord. If the owner of land is an individual, this payment by the tenant is called rent; it is called *Kharaj* or *Ushr*, if the landowner is the State. Generally speaking, *Kharaj* is paid by the non-Muslim cultivators, while *Ushr* is paid by the Muslim cultivators to the Government. *Kharaj* is an annual land tax levied upon the non-Muslim cultivators and is collected only once, irrespective of the number of crops raised during the year. Whereas *Ushr* is a compulsory levy (i.e., *Zakat*) on lands cultivated by the Muslims and is collected at the rate of one-tenth of the total produce of land from all crops. Thus it may be collected two or three times a year depending upon the number of crops raised during the year. Besides, *Kharaj* can be reduced or remitted, whereas *Zakat*, like daily prayer, is permanently fixed by God and can neither be reduced nor remitted by any authority.

1. *Al-Amwal*, P. 282, quoted by M. Taqi, op. cit., P. 158.
2. *Umda-tul-Qadri*, Vol. VI, P. 638, quoted by M. Taqi, op. cit., P. 158.
3. *Ahkam-al-Sultania*, P. 190, quoted, by M. Taqi, op. cit., P. 159.

Tenancy : Tenancy refers to the right of a cultivator to cultivate a piece of land he does not own, through a contract signed between him and the owner of the land. It gives him the right to continue cultivating land so long as he pays rent to the landowner and acts properly in accordance with the conditions of the tenancy. The cultivator is also guaranteed his tenure through such a contract on reasonable rent without any injurious or unjust increase in it and compensation from the landlord if he is turned off from the land.

Forms of Tenancy :

There can be only two possible forms of tenancy in which rent or *Kharaj* of land is paid to the landowner. It is either paid in cash or kind, i.e., either the tenant can pay a fixed amount of money for the use of the land or he can offer a certain fixed share of the produce of land to the landowner.

Share Tenancy (or Batai) : When land is given on share tenancy, it is called *Muzaraa* (مزارعة) and when a garden is given on the same condition, it is called *Musagat* (مساقات).

In this form of cultivation, landlord receives a certain fixed share of the produce, may be one half, or one third, or one fourth, as agreed in the contract, from the tenant and the payment is generally made in kind. This form of tenancy was practised in the time of the Holy Prophet, who also gave the lands of *Khaibar* to the Jews on share tenancy as reported by *Ibn Umar* :¹

“The Messenger of God granted lands of *Khaibar* to the Jews on the condition that they would work thereon and cultivate them and have half the produce.”

This contract continued up to the Caliphate of *Umar* but later on was discontinued by him when the Jews broke some conditions of the contract. There are many *ahadith* which show that the companions of the Holy Prophet rented their lands and garden on share tenancy :

1. *Bukhari*, Urdu edition, op. cit., Vol. I, P. 523, No. 2159 and P. 521 No. 2151.

- * According to *Rafey bin Khadij*, his family used to rent land on the basis of crop-sharing by one-third or one-fourth or by any fixed quantity of the crop.¹
- * The Holy Prophet permitted a form of share tenancy between the *Muhajirin* and the *Ansar* when he agreed to the request of the latter that the *Muhajirin* could work in their orchards and share the fruit with them.²
- * It is reported that every family in *Madina* used to rent land on the basis of crop sharing with their landowner. *Abu Bakr*, *Umar*, *Ali*, *Sa'd bin Malik*, *Abdullah bin Masud*, *Umar bin Abdul Aziz*, *Qasim* and *Urwah* used to rent their lands on crop sharing basis.³
- * *Othman* had granted lands to *Abdullah bin Masud*, *Ammar bin Yasar*, *Khubab bin Arat* and *Sa'd bin Malik*. *Abdullah bin Masud* and *Sa'd bin Malik* used to let their lands on crop sharing basis.⁴

Controversy about its Legality :

There is disagreement among the *Muslim* jurists about the legality of share tenancy form of cultivation. Some jurists regard share tenancy agreement like that of partnership in trade and therefore lawful ; while others completely reject it as intolerable and oppressive. And there are still others who regard it lawful but under certain conditions.

Before we discuss the arguments of the rival groups, we would like to describe the share tenancy system in actual operation during the Caliphate. Share tenancy system was understood during the Caliphate as joint cultivation, i.e., letting land for cultivation to a tenant in return for a fixed share (*batai*) in the produce. And the *Muslim* jurists have defined share tenancy as a form of cultivation in which land is given for cultivation in

1. *Bukhari*, Urdu edition, op. cit., Vol. I, pp. 523-524, Nos. 2160-2164, 2166.

2. *Ibid.*, op. cit., Vol. I, P. 519, No. 2145.

3. *Ibid.*, op. cit., Vol. I, P. 520.

4. *Kitab-al-Kharaj*, op. cit., P. 248, No. 250.

return for a fixed share in the produce of the land. Two forms of this system of cultivation were in vogue during the Caliphate.

(i) *State as a Benevolent Landowner* : The Caliphate gave its land to the cultivators for cultivation on very generous terms in return for a fixed share of the produce of land. Umar issued the following order to Yala bin Ummayya, governor of Yemen, regarding the letting of land for cultivation during his Caliphate:

"Give all uncultivated (idle) lands to the people for cultivation. If they provide agricultural implements and seeds themselves, then settle at half of the produce of land with them; if all this capital is provided by Umar (i.e., the Caliphate) and they provide only their labour, then the Caliphate will receive two-thirds of the produce and one-third will be theirs."¹

Umar bin Abdul Aziz issued this order regarding the cultivation of the State land to his governors:² "Distribute all idle and uncultivated lands in your province among the cultivators and settle at one-half of the produce with them. If they don't agree at this condition, then accept whatever share of the produce they are willing to pay; even if it be one-tenths of the produce. If they are not willing to cultivate even on the last condition, then give land gratis. And if they are not willing even to take land gratis, then cultivate land on state expenses but, under no circumstance, land should be left uncultivated or taken forcibly from anyone."

This type of share tenancy reflects the early form of joint partnership in agriculture between the State and the cultivators which came into operation under the administration and supervision of the Caliphate.

As a Cooperative Venture between Landowner and Cultivator :

Second form of share tenancy was that of cooperation i.e., when the land owner could not himself cultivate his land for a good reason, he settled at a reasonable share of the produce (*batai*) with the tenant cultivator in return for his land. There

1. *Sharh-al-Muani-al-Athar, Bab-al-Muzaraa*, quoted by M. Taqi, op. cit., P. 181.

2. *Al-Kharaj-le-Yahyah*, quoted by M. Taqi, op. cit., pp. 181-182.

is sufficient evidence to prove that many of the well-known companions of the Holy Prophet gave their lands for cultivation to the tenants on the basis of crop-sharing and that such contracts of cultivation were generally made and conducted in a spirit of cooperation between the parties.¹

Imam Bukhari reports from Abu Jafar : "that there was not a single family in Madina which did not let its land for cultivation at one-third or one-fourth (of the produce of land)."¹

In this form of cultivation two things need deliberation : Firstly, who were allowed to give their land on share tenancy; and secondly, under what conditions were they allowed to let their land for cultivation? A study of the history of the early Caliphate shows that most of the people, who gave their lands for cultivation on crop-sharing basis, were engaged in the defence of the country or in other public utility or social welfare work. They let their land for cultivation to the tenants because, owing to their pre-occupation in the service of the community, they could not themselves cultivate it. And there is ample evidence to prove that the relation between the landowners and the tenants were most friendly and cordial and there was no question of exploitation. Besides, the Caliphate was very strict in this matter and did neither leave anyone idle to live on the labour of others; nor did it give any opportunity to anyone to unjustly exploit other people.

It may here be pointed out that the Caliphate adopted all the practical methods to bring land under cultivation. It tried to bring more land under cultivation through State expenditure under its own management and supervision and also by allowing landowners to cultivate land through partnership with tenants. The Caliphate sometimes, in view of the general good of society, gave preference to the second form of cultivation and sometimes made its own arrangements for the cultivation of land through State expenditure. Whatever the form of cultivation, there was no fear of encroachment upon the rights of the cultivator or any possibility of disputes between the parties involved. It was

1. Bukhari, op. cit., Vol. I, P. 520.

conducted in a most brotherly and friendly way and in a spirit of benevolence rather than enmity and hatred.

It is necessary, however, to bear in mind the two fundamental facts of Islam: Firstly, that in an Islamic State, God is the real owner of land and everything else; and man is appointed to benefit from these as a trustee; and secondly that land is never left in other people's hands to acquire personal prestige and political influence; but is given only to those who increase its productivity and contribute towards the general welfare of society; and in fact, they are its rightful owners.

As a Contract of Partnership: The nature of share tenancy during the Caliphate, was like partnership and the land-owner and the cultivator were like two partners. There was no question of encroachment upon the rights of either of the parties nor was there any fear of oppression or excess by the landowner upon his partner under that form of partnership of cultivation. Just as two partners cooperate and initiate any business, so were the two partners in the contract of cultivation. This was why all forms of cultivation, under which there was slight possibility of any harm to one's rights or fear of disputes among them, or the chance of the landowner gaining superiority over his partner, were forbidden and declared illegal by the Caliphate.

The following statement of *Imam Abu Yousuf* clearly explains the position of share tenancy in *Islam*:¹ In my opinion, share tenancy is lawful (and permissible) only with those conditions which are proved by history." And all those forms of share tenancy are declared unlawful by the Holy Prophet which are likely to oppress either side or lead to encroachment upon some one's rights or to disputes between the parties.

Jurists have explained the operation of share tenancy in these words: "Both the elements of hire and partnership are present in share tenancy. It is in the nature of hire at the time of agreement but afterwards it becomes like partnership."²

1. *Kitab-al-Kharaj*, op. cit., pp. 311-315, Nos. 386, 391-96.

2. *Fatawa Alamgiri*, Vol. IV, quoted by M. Taqi, op. cit., P. 184.

In fact, share tenancy is a kind of contract by which the cultivator takes land on *batai*; the landowner pays him the remuneration for his labour in the form of produce and the cultivator pays the rent of land to the landowner in the form of produce. If there is a spirit of goodness and benevolence behind this contract and either of them expects only to receive his due and rightful share for his land or labour, then it is the best form of cooperation, partnership and friendship. But if this spirit is lacking and the weakness and helplessness of the cultivator becomes the instrument of landlord's oppression and exploitation; or there is fear of dishonesty on either part or possibility of disputes among them, then this form of cultivation is not permitted by the Islamic State as is shown by the following statement:

"It is quite appropriate to disallow such forms of share tenancy which deprive the cultivators of the fruit of their labour and provide opportunity to the landowner to exploit them and unjustly benefit from their labour."¹

In view of these fears, the Holy Prophet advised his companions to give their surplus land gratis to their brethren and collect neither rent for hire nor share of the produce.²

Gratis Grants: This form of cultivation was a means of creating goodness and sympathy in the hearts of people. It was, in fact, regarded the best act of piety and benevolence to give one's surplus land gratis to other Muslims for cultivation. The teaching of the Holy Prophet had so changed the entire fabric of society that the spirit of good-will and fraternity predominated above all other instincts and motives during the Caliphate. It was a common thing in those days to benefit one another or take initiative in doing good to others, or to prefer another's needs to one's own, or to sacrifice one's dearest and most expensive things to do an act of goodness and to enrich other fellow creatures; in short, such qualities had grown up among the people that they were always prepared to make the greatest

1. *Fatawa Alamgiri*, Vol. IV, P. 87, quoted by M. Taqi, op. cit., P. 185.

2. *Bukhari*, op. cit., Vol. I, pp. 523-524, Nos. 2160-2161.

possible sacrifices for others at the time of need.

The following verses of the Holy *Quran* helped to develop a spirit of mutual help and cooperation among the early *Muslims*:

In Sura 'Al-e-Imran' :

"You cannot attain to righteousness unless you spend out of what you love." (3 : 91)

In Sura 'Al-Baqara' :

"So vie with one another in good works." (2 : 148)

In Sura 'Al-Ra'd' :

"And as for that which does good to man, it tarries in the earth." (13 : 17)

In Sura 'Al-Hashr' :

"And prefer (them) before themselves, though poverty may afflict them." (28 : 9)

This teaching developed a spirit of love, affection and fraternity among the *Muslims* and, as a result, they found no sacrifice too great for the benefit of their brethren and the country. The Holy Prophet by his own example, provided a strong stimulus to the development of this spirit of sacrifice and benevolence among the *Muslims*. He even encouraged them to give their surplus lands gratis to their brothers for cultivation.

It is reported that the Holy Prophet said : "Whosoever has land, should cultivate it himself, or give it to his brother gratis."¹

But at the same time a landowner, who had no other means of livelihood or whose land in that case was likely to remain uncultivated, was allowed to give his land to a tenant cultivator for cultivation in return for the produce of his land in the form of *batai* or rent for the use of his land. This permission is contained in the following saying of the Holy Prophet :

"The Holy Prophet said : If it is not given gratis to your brethren or is kept idle (i.e., uncultivated), it is better to give it for cultivation in return for a fixed rent (or share of the

1. Bukhari, op. cit., Vol. I, P. 524, Nos. 2161-2162.

produce)"¹.

This shows that giving of land on hire in return for *batai* or cash is not an act of piety and goodness in the eyes of *Shari'ah* but is permissible when there is no other alternative for bringing the land under cultivation. In other words, this alternative is second best and is adopted only when the first best is not available and the land is being left idle (i.e., uncultivated).

This is the golden mean between the two extreme views (of individual ownership and State ownership), which nourishes goodness and mutual love in the hearts of people and destroys the ignoble feelings of selfishness, self-gratification and greed. At the same time, it protects and safeguards the rights and welfare of individual members of the State.

To sum up, share tenancy during the Caliphate did not create any section of parasites in society who lived a life of ease and luxury on the labour of other people. This form of cultivation was adopted merely to produce more food by cooperation so that no land was left uncultivated in the Islamic State. This form of cultivation achieved wonderful results in creating an atmosphere of friendship and love amidst plenty.

Unlawful Forms :

All forms of share tenancy which were likely to cause disputes among people or harm the right of any party, were declared unlawful by the Holy Prophet. It is reported by the three companions of the Holy Prophet who were famous farmers during the time of the Holy Prophet that he forbade certain undesirable forms of tenancy. They are : *Rafey bin Khadij*, *Jabir bin Abdullah* and *Thabat bin Zahhak*.

A study of the reports from these people show that different forms of share tenancy were in practice during the time of the Holy Prophet. Some of these were such which encouraged the creation of idlers in society who would live on the labour of others ; and some were such which encroached upon the just rights of the cultivators. Besides, in some forms of tenancy

1. Bukhari, Vol. II, P. 33, quoted by M. Taqi, op. cit., P. 186.

certain unjust conditions were laid down which were the cause of disputes and quarrels between the parties. Some of these forms of tenancy are given below :

(a) In some tenancy agreements, the produce of more fertile plots of land was reserved for the landowner and the produce of the worst plots was given to the cultivator. It is reported by *Rafey bin Khadij* that more cultivation was done by them than all the inhabitants of *Madina*. They used to rent land and reserve a certain portion of it for the landowner, who took whatever it produced in exchange for the use of land. Sometimes calamity fell on that portion and the other plots remained safe and, at other times, calamity fell on the rest of the plots and that portion remained safe. And sometimes the landowner forcibly occupied the portion of the cultivator.¹

(b) Sometimes the landowner took the produce of the land watered by wells and canals and the cultivator received the produce of barren land (irrigated by rainfall). As reported by *Rafey bin Khadij*, people used to let their land for cultivation during the time of the Holy Prophet, taking themselves what grew on the water-courses or canals and leaving the rest for the cultivator. Sometimes one crop grew less or was destroyed and the other remained safe or grew in abundance ; and sometimes the other grew less or was destroyed and this grew in abundance or was safe. In both cases the right of either of the parties was jeopardised or damaged.²

(c) Sometimes the cultivator had to pay a certain fixed amount of the produce of the land to the landowner whatever the harvest ; or he had to pay a certain fixed amount of the produce over and above the agreed quantity, e.g., a certain fixed amount say, two maunds of the produce, were to be paid to the landowner before the rest of the produce was to be shared between them. In both the cases, the cultivator was under oppression and his right was usurped by the landowner.³

1. *Bukhari*, op. cit., Vol. I, pp. 520-521, Nos. 2147 and 2152.

2. *Bukhari*, quoted by Maulana Abul Ala Maudoodi, op. cit., P. 56.

3. *Kitab-al-Kharaj*, op. cit., pp. 350-354, Nos. 474-478.

(d) The cultivator had to pay sometimes more than the amount of rent to the landowner in the form of "custom" and "tradition."¹

All the above-mentioned forms of share tenancy were in vogue in Arabia at that time and most of them were against the canons of equity and justice and, often, jeopardised the rights of the cultivators ; the Holy Prophet, therefore declared them unlawful. As most of these forms of cultivation were the root cause of constant disputes and strifes among the parties involved and often usurped the rights of the cultivators, they were forbidden by the Holy Prophet. It may, however, be pointed out that this prohibitory injunction of the Holy Prophet covers only those forms of share tenancy which contain the evils of distribution, oppression and suppression. This order, under no circumstances, applies to such forms of tenancy which were based on the principle of cooperation and partnership between the cultivator and the landowner on equal terms and were therefore recognised and permitted by the Holy Prophet.

The Holy Prophet forbade certain forms of share tenancy partly to discourage unjust and oppressive forms of cultivation, and partly to popularise the distribution of land gratis for cultivation to other people so that the spirit of goodness and benevolence might help to cement the relations between the various members of the community. This is supported by the statement of *Ibn Abbas* who is reported to have said :² The purpose of prohibition (of such forms of cultivation) by the Holy Prophet was merely to encourage benevolence in society.

Another statement of *Ibn Abbas* runs as follows : "The Holy Prophet had not, in fact, prohibited (all forms of share tenancy) but had only diverted attention to the fact that it was better to give land gratis to any of your brothers than to receive a fixed rent of the land."³

1. *Kitab-al-Kharaj*, op. cit., pp. 353-354, Nos. 478-479.

2. *Bukhari*, *Babal-Muzaraa*, quoted by M. Taqi, op. cit., P. 190.

3. *Bukhari*, Urdu Edition, op. cit., P. 544, No. 2163.

Differences of Opinion :

There are two schools of thought among the *Muslim* jurists regarding the legality of this form of cultivation (*batai*). One school of thought supports it and considers it lawful while the other opposes it and condemns it as illegal. We will now discuss the views of these schools in the following :

Supporters : The jurists who support share tenancy and regard it a lawful form of cultivation take it as a contract of lease between the cultivator and the landowners. The cultivator is a lease holder, who takes land on lease from the landowner ; thus it is a form of contract between the cultivator and the landowner, in which the former is an equal partner of the latter and both share in the produce of the land. Both the partners enjoy equal rights in this form of cultivation and neither is given preference over the other. However, as the cultivator spends his capital and labour on cultivation of land, while the landowner only gives his land, the former gets a preferential treatment from the Islamic State and is granted remission or reduction of rent under certain conditions.

The fact that share tenancy is regarded as a partnership is stated in *Hanafi* jurisprudence in these words :¹ "Both the elements of hire and partnership are found in share tenancy (*مزارعه batai*). In the initial stages of contract, it is hire but in the end, it becomes a partnership deed." And *Imam Abu Yousuf*, while discussing the legality and illegality of share tenancy says : "Just as '*Muzarabah*' is lawful i.e., one man gives capital and the other labour and both share in the profits, similarly in my opinion, land is *Muzarabah* capital (*أصل مزاربة*), one man owns the land and the other hires it and both share the profit, whether it is a matter of share tenancy (*Muzaraa*) or hire."²

And *Mohammad bin Seereen* is of the opinion that ; "the nature of land is that of *Muzarabah* capital (*أصل مزاربة*). Whatever problems are lawful there, are also lawful here, and what-

1. *Al Badai-wal-Sanai*, Vol. VI, P. 177, quoted by M. Hifzur Rahman, op. cit., P. 176.

2. *Kitab-al-Kharaj*, P. 331, No. 386.

ever is unlawful there, is also lawful here."¹

In other words, the problem of land cultivation, whether cash or share tenancy, is under all circumstances, like that of *Muzarabah* (*مزاربة*) in trade matters. And all *Muslim* Scholars agree regarding *Muzarabah* (*مزاربة*) that this form of trade is the best form of mutual co-operation and partnership and that in this form of trade the two sides are the partners in business and not as master and slave.

Allama Sarkhasi says that when a cultivator has taken land on cash or share tenancy and the contract is signed, if then he refuses to cultivate the land on very sound ground and says that he does not want to proceed with this work that year, the contract will become invalid. The cultivator will not be forced into the contract and argues like this : "Because the jurists, who have made share tenancy lawful, consider it a form of hire and contract of hire becomes invalid on excuse (by one of the partners who does not wish to proceed with the contract). This is because hire (of land) is made lawful in view of the need and demand of the cultivator. Therefore, in such circumstances, when he does not want to cultivate the land and his opinion has changed, forcing him to honour the contract will be equivalent to damaging his interest."²

Allama Abdur Rahman Jazairi, while commenting on the legality of share tenancy, has expressed his opinion in these words :³ "In view of the existing conditions of the time, it is possible for us to co-ordinate the two opinions and select the one which is more beneficial and useful to the people. There are some people who look for those moments when the cultivator is helpless and destitute and is hard pressed to seek cultivation for livelihood. And when the cultivator comes to them for a contract of tenancy under these circumstances, they do not give

1. *Nisai*, *Bab-al-Muzaraa*, quoted by M. Hifzur Rahman, op. cit., P. 177.

2. *Mabsut*, Vol. XXIII, P. 25, quoted by M. Hifzur Rahman, op. cit., pp. 186-187.

3. *Kitab-al-Fiqh-alal-Muzahib-al-Arbah*, Vol. III, quoted by Hifzur Rahman, op. cit., pp. 187-188.

their lands without such conditions in the contract that create hardship for him. When he is forced by extreme necessity to take land for cultivation, he is fully exploited by the landlord who manages to reap most of the fruit of his labour and forcibly usurps much more of the share of the produce than his rightful share."

"This form of share tenancy can under no circumstances, be lawful in the Islamic *Shariah* which makes it obligatory for the *Muslims* to help the weak worker (like that of a cultivator) and support the destitute and helpless. It is therefore proper to check and forbid people from such *Zamindari* (share tenancy) which deprives the cultivator of the fruit of his labour and renders the need of a destitute as an instrument for increasing their wealth. But the jurists may make it lawful when the people have good intentions towards each other and either of the partners (landowner and the cultivator) resolves that each one of them should receive his due share in proportion to the land and labour supplied by them respectively ; and that he bears no ill-will against the other ; further when the landowner shows no dishonesty in matters of share or cash tenancy and the cultivator is not deceitful concerning labour and capital ; and, above all, when the economic needs demand that the system of share tenancy be re-introduced, then under these circumstances, permission may be granted for this form of cultivation on the same conditions as mentioned by the jurists who support this system."

"This type of tenancy is one of the forms of mutual help, cooperation and partnership in land cultivation adopted by the Caliphate to increase its production. The cultivator is given greater consideration, for because of his need he is forced to earn his living through this form of cultivation. In view of his weak position, he is treated gently and kindly."

"But if the conditions are such that mutual cooperation between the partners is lacking and the landowner, by exploiting the destitute and helpless cultivator, is devouring the fruits of his labour, then the *Imam* has the right and full authority to

terminate this form of tenancy."¹

Shah Wali Ullah supports share tenancy in these words :¹ "There is no natural equality among people ; their temperaments are different and their abilities and aptitudes vary, it is therefore necessary for the establishment of a progressive and prosperous society that the spirit of mutual trust and cooperation should grow among the people. And in human society, every one is dependant upon others for the satisfaction of one's needs. Very often an individual possesses one thing but needs the help of another individual to make it useful, e.g., one has land but has not got the necessary capital or agricultural implements for cultivation ; or even having the necessary equipment, he does not possess the courage and will to do cultivation. The same may be said about transferable wealth that one has the required capital but does not get enough time to do trade (or other business) or does not possess the ability and power to bear the burden and hardship of trading (or other business), or he may be engaged in a more important work and does not like to do it. Therefore, we need mutual help so that by giving our wealth (capital or land) to others, we may share the profit with them."

He further elaborates his point that share tenancy becomes a necessity when some people have the necessary labour power but are without land ; while others have land but are without capital and labour. Under these circumstances, mutual help and cooperation through share tenancy is the only effective method of bringing more land under cultivation for the benefit of both the parties.²

Maulana Maudoodi is in favour of share tenancy and, in support of his doctrine of letting the land on a crop-sharing basis has quoted many sayings of the Holy Prophet. He has, in fact, quoted all the sayings of the Holy Prophet, for and against this form of cultivation and has then rejected those which are against and has accepted the others which support the above system of cultivation.³

1. *Al-Budur-al-Bazigha*, P. 70, quoted by M. Taqi, op. cit., P. 193.

2. *Musaffah Sharah Muarta*, quoted by M. Taqi, op. cit., P. 194.

3. *Masla Milkiyat Zameen*, op. cit., pp. 39-67.

We will enumerate in the following only those sayings which support this doctrine and are quoted by *Maulana Maudoodi* in support of his arguments. Other sayings which are against this system of cultivation will be discussed in the next section.

Abdullah bin Umar reports that when the land of *Khaibar* fell into the hands of the *Muslims*, half of it was made the property of the Caliphate and the other half was divided among the fighters. The Jews requested the Holy Prophet to allow them to stay and they would cultivate the land and would be prepared to accept one half of the produce of the land. The Holy Prophet agreed but warned them that they would have to vacate the land if they broke the contract or the Caliphate wanted to take it back. This arrangement continued until the time of the Caliphate of *Umar* when the Jews broke the contract and were asked to vacate and were settled in *Taima* and *Ariha*.¹

Abu Hurairah says that when the Holy Prophet came to *Madina*, the *Ansar* wanted that their gardens be divided between the *Muhajirin* and themselves. The Holy Prophet did not accede to their request. Afterwards, the *Ansar* asked the *Muhajirin* to look after their gardens and thereby share the fruit crop with them. The *Muhajirin* agreed to this proposal and the Holy Prophet approved of it.²

Many companions of the Holy Prophet, including *Quais bin Muslim*, *Abu Jaffar*, *Ibn Abi Shaiba* and *Musa bin Talha* say that every *Muhajirin* family in *Madina* used to cultivate land on a crop-sharing basis with their landowners. And that many famous companions of the Holy Prophet like *Abu Bakr*, *Umar*, *Ali*, *Sa'd bin Malik*, *Abdullah bin Masud*, *Umar bin Abdul Aziz*, *Qasim* and *Urwah* used to let their land for cultivation on share tenancy.³

Ali is reported to have said that there was no harm in giving land for cultivation on the basis of half crop-sharing.⁴

1. *Bukhari*, Urdu Edition, op. cit., P. 523, No. 2159.

2. *Ibid.*, op. cit., P. 519, No. 2145.

3. *Ibid.*, op. cit., P. 520.

4. *Kanzal-Ummal*, quoted by M. Maudoodi, op. cit., P. 50.

It is reported that *Othman*, the third Caliph, gave lands to *Abdullah bin Masud*, *Ammar bin Yasar*, *Khubab bin Artat* and *Sa'd bin Malik*; and that *Sa'd bin Malik* and *Abdullah bin Masud* gave their lands for cultivation on share tenancy and shared the crop by one-third or one-fourth.¹

Taos reports that *Muaz bin Jabal* gave his land for cultivation on share tenancy and shared the crop by one-third or one-fourth during the Caliphate of the Holy Prophet, *Abu Bakr*, *Umar* and *Othman*.²

From the above-mentioned sayings of the Holy Prophet, *Maulana Maudoodi* deduces that the system of share tenancy in agriculture (and gardening) is lawful. It was in vogue during the time of the Holy Prophet and many famous companions used to let their land for cultivation on crop-sharing basis during the time of the Holy Prophet and his Caliphs. The Islamic *Shariah* has not placed any restrictions on the quantitative ownership or purchase of any commercial goods, including land, but has, in fact, given a free choice to the people to invest their capital in any sector of the economy (not excluding land), on profit-sharing basis.

Besides, there is no compulsion in *Islam* for any owner of property (landed or otherwise) to give a part or whole of it free to other people. And above all, if such restrictions are placed on the cultivation of land, then the law of inheritance, ownership of land by women, children, the aged and the invalids seem a bit odd and strange in the economic system of *Islam*. Thus *Maulana Maudoodi* concludes that the system of crop-sharing is valid and lawful in Islamic society.

Opposition to Share Tenancy:

There is another school of thought in Islamic Jurisprudence which regards this system of crop-sharing in agriculture as unlawful and illegal. This opinion is shared by many companions of the Holy Prophet and well-known jurists of Islamic

1. *Kitab-al-Kharaj*, op. cit., P. 248, No. 250.

2. *Ibn-Maja*, quoted by M. Maudoodi, op. cit., P. 50.

Shariah. We will quote below those sayings of the Holy Prophet which show that he did not like share tenancy and forbade his companions from the cultivation of land on this basis.

According to *Rafey bin Khadij*,¹ his family used to buy land and give it for cultivation on share tenancy, taking one-third or one-fourth or a fixed quantity of the produce of land. One day one of his uncles came and told them that the Holy Prophet had forbidden them a business which was profitable. The Holy Prophet forbade them from letting land on rent and sharing produce of the land by one-third or one-fourth or a fixed quantity. The Holy Prophet told the landowner either to cultivate land himself or give it gratis to others for cultivation. And he disliked the letting of land on rent or on any other basis.

Rafey bin Khadij reports that his uncle *Zahir bin Rafey* said that the Holy Prophet enquired about their agriculture and he told him about it. Then the Holy Prophet told him not to do like that and advised him either to cultivate the land himself or give it gratis to others for cultivation or leave it fallow.²

Rafey bin Khadij reports that while he was watering his fields, the Holy Prophet passed that way and enquired about the land. He told the Holy Prophet that it belonged to him and that labour and seed were supplied by another person who would share half of the total produce of the land with him. On hearing this, the Holy Prophet told him not to indulge in such a transaction which contained the element of *Riba*.³

Mujahid reports from *Rafey bin Khadij* that the Holy Prophet forbade them from a business which was profitable (giving land on share or cash tenancy). The Holy Prophet also told them that if they had land, they should either cultivate it themselves or give it gratis to their brethren in faith for cultivation.⁴

According to *Saeed bin Musayyib*, *Rafey bin Khadij* said that the Holy Prophet forbade crop-sharing and the sale of dates on

trees and said that the cultivation may only be done by three persons :

- (i) The owner of land who himself cultivates it ;
- (ii) One who gets land gratis from another and cultivates ; and
- (iii) One who hires the land on cash tenancy (for gold or silver).¹

Suleman bin Yassar reports that *Rafey bin Khadij* reported from his uncle that the Holy Prophet said that if anyone owned any land, he should not give it on a fixed quantity of the crop. On another occasion the Holy Prophet said that the owner of land should himself cultivate his land or give it gratis to any of his brethren in faith but should not give it on hire nor on share tenancy, taking one-third, or one-fourth, or a fixed quantity of the produce.²

The son of *Rafey bin Khadij* reports from his father that when he came back from the Holy Prophet, he said that the Holy Prophet had forbidden them from a profitable business. The Holy Prophet told them not to cultivate land except when it belonged to them or was given to them gratis for cultivation by someone.³

Abdullah bin Umar reported that his family gave land for cultivation on share tenancy but stopped this practice when they heard the saying of the Holy Prophet from *Rafey bin Khadij*. On another occasion, he said that his family used to let land on share tenancy and did not consider it unlawful but when they heard from *Rafey bin Khadij* that the Holy Prophet had forbidden them from this form of cultivation, they left this practice of letting their land on crop-sharing basis.⁴

Jabir bin Abdullah says that the Holy Prophet forbade the

1. *Muslim*, quoted by M. Maudoodi, op. cit., pp. 39-40.

2. *Bukhari*, Vol. I, op. cit., P. 523, No. 2160.

3. *Abu-Daud*, quoted by M. Maudoodi, op. cit., P. 40.

4. *Tirmizi*, quoted by M. Maudoodi, op. cit., pp. 40-41.

1. *Abu Daud*, *Ibn Maja* and *Nisai*, quoted by M. Maudoodi, op. cit., P. 41.

2. *Ibn Maja*, *Abu Daud* and *Nisai*, quoted by M. Maudoodi, op. cit., P. 41.

3. *Abu Daud*, quoted by M. Maudoodi, op. cit., pp. 41-42.

4. *Muslim*, *Abu Daud* and *Ibn Maja*, quoted by M. Maudoodi, op. cit., P. 42.

letting of land on hire or on a crop-sharing basis.¹

Jabir bin Abdullah reports that the Holy Prophet said that if anyone owned any land, he should either himself cultivate it, or give it gratis for cultivation to one of his brothers in faith.²

This *hadith* is reported in different texts but almost all convey the same meaning.

Jabir bin Abdullah reports that the Holy Prophet forbade the letting of vacant land on hire for a few years in return for its produce.³

According to *Jabir bin Abdullah*,¹ the Holy Prophet forbade *Muzanba* and *Haqal*. He explained that *Muzanba* was exchanging plucked dates with the dates on the trees and *Haqal* was giving land on hire.

Jabir bin Abdullah said that the Holy Prophet warned that person, who did not stop from (crop-sharing), with a challenge of war from God and His Apostle.⁴

Abu Hurairah reports that the Holy Prophet said that anyone who owned any land should either himself cultivate it or give it gratis to one of his brothers in *Islam* or leave it fallow.⁵

According to *Abu Saeed Khudri*, the Holy Prophet forbade *Muzanba* (buying dates while on trees) and *Mahaqala* (renting land).⁶

Thabat bin Zahak is reported to have said that the Holy Prophet had forbidden landlordism (i.e., letting land on hire for cultivation).⁷

Zaid bin Thabat reports that the Holy Prophet forbade *Mukhabira* which meant letting land on a crop-sharing basis by

1. *Muslim*, quoted by M. Maudoodi, op. cit., P. 42.

2. *Muslim*, *Bukhari*, Urdu Edition, P. 524, No. 2161 and *Ibn Maja*, quoted by M. Maudoodi, op. cit., pp. 42-43.

3. *Muslim*, quoted by M. Maudoodi, op. cit., P. 43.

4. *Abu Daud*, quoted by M. Maudoodi, op. cit., P. 43.

5. *Bukhari*, Urdu Edition, op. cit., Vol. I, P. 524, No. 2162.

6. *Muslim* and *Ibn Maja*, quoted by M. Maudoodi, op. cit., P. 44.

7. *Muslim*, quoted by M. Maudoodi, op. cit., P. 44.

one-half, one-third or one-fourth.¹

Nafey reports that *Abdullah bin Umar* kept letting his land on hire during the time of the Holy Prophet and his four Caliphs till the year 50 *Hijra*. Then he was told that the Holy Prophet had forbidden letting of land on hire. When he confirmed it from *Rafey bin Khadij*, he stopped letting land on hire.²

According to *Salim bin Abdullah*, *Abdullah* stopped the practice of letting his land on hire when he heard from *Rafey* that the Holy Prophet had forbidden this form of cultivation. *Abdullah* stopped this practice, but he said that, though he knew that land was given on hire during the time of the Holy Prophet, he stopped from letting land on hire fearing that the Holy Prophet might have forbidden it and he might not have heard it.³

The above-quoted sayings of the Holy Prophet show that share tenancy system of cultivation was not approved by the Holy Prophet. He advised *Rafey* family, which was the biggest farming family in *Madina*, either to cultivate land themselves or give it gratis to their brethren in *Islam* for cultivation. This system of cultivation was so harmful in the opinion of the Holy Prophet that he would prefer to see land lying fallow without producing anything for the community but would not tolerate it being let on a crop-sharing basis. If it was not possible for the landowner himself to cultivate his land, then the Holy Prophet would advise him to give it gratis to his brethren in *Islam* and thereby to open new grounds of friendship and mutual help in society. This generous behaviour would nourish and stimulate spirit of mutual help, cooperation and partnership in the community.

This view is shared by many famous jurists, including *Imam Abu Hanifa*, *Imam Malik* and *Imam Shafi*. *Imam Abu Hanifa* was opposed to share tenancy system of cultivation both in

1. *Abu Daud*, quoted by M. Maudoodi, op. cit., P. 44.

2. *Bukhari*, Urdu Edition, op. cit. Vol. I, P. 524, No. 2164.

3. *Bukhari*, *Muslim*, *Ibn Maja* and *Abu Daud*, quoted by M. Maudoodi, op. cit., P. 46.

agriculture and in gardening. It is reported in *Hidaya* that both *Muzaraa* (crop-sharing) and *Masaqah* (fruit-sharing) are unlawful according to *Abu Hanifa*.¹

It seems that *Imam Abu Hanifa* forbade this system of cultivation partly because a new section of social parasites, who exploit and unjustly benefit from the fruit of labour, might not come into being; and partly because the landowners, by giving their land gratis to other people for cultivation, might attain the highest degree of piety and goodness.

2“The arguments of *Imam Abu Hanifa* against this system of cultivation are three-fold. Firstly the Holy Prophet has expressly prohibited *Mukhabira*, which in the dialect of *Madina* has the same significance as *Muzaraa*, namely compacts of cultivation between a landowner and a cultivator by which it is agreed that whatever is produced from the land shall belong to both in proportion as may be therein determined. Secondly to make a compact of cultivation is to hire a labourer for a part of that thing which is produced by his labour; it is, therefore, in effect a '*Kafeez Tahhan*'³ and as that is unlawful, so likewise is this. Thirdly, the rate of hire, in such cases, is uncertain, when any produce is reaped; or it is destroyed when no produce is reaped; and in either case the hire is invalid. Moreover, with respect to the transaction which passed between the Holy Prophet and the Jews of *Khaibar*, it was not a compact of cultivation, but was rather in the nature of a tributary revenue, allowed to be paid in kind, as an indulgence or compromise.”

The people were at first amazed by this decision of the renowned *Imam* but now the oppressions and suppressions of the

1. *Kitab-al-Kharaj* Urdu Edition, op. cit., pp. 311-312, No. 387 and *Hidaya*, *Bab-al-Muzaraa*, quoted by M. Maudoodi, op. cit., P. 64.

2. Charles Hamilton, *The Hedaya*, London, 1870, Book XL, “Of *Muzaraa*, a compact of Cultivation.”

3. *Tahhan* signifies a miller or grinder of wheat, and *Kafeez* a crop, used for measuring; *Kafeez Tahhan*, therefore, means to hire a person to grind wheat into flour, in consideration of a measure of the flour for his hire.

landowners have cleared the mist and the evils of share tenancy have become manifest to all. And it is being felt by almost all the farming experts that this form of cultivation has discouraged improvements in land and, in consequence, has rendered much fertile land barren and deprived humanity of its fruits. The great majority of the economists all over the world now hold similar views and are inclining towards the doctrine of *Islam*. Who can say that in the not very distant future, the people may have to reconsider the following suggestion of the Holy Prophet:¹

“Whoever possesses land, should either himself cultivate it, or give it gratis to his brother in *Islam* for cultivation, or if he refuses to do either of these things, he should keep it with himself.”

It seems quite fair and logical to conclude from the above saying of the Holy Prophet that those who are unnecessarily occupying vast tracts of land and neither themselves cultivate it, nor let other needy persons benefit from it, should be deprived of the excessive surplus land which they are now occupying to the detriment of society.

Apparently share tenancy system seems convenient for both the landowner and the cultivator for whatever is produced would be divided between them and their share would vary according to the harvest; and if there is no produce, the latter would not have to give anything to the former from his pocket. But practical experience of ages has shown that the cultivator does not work his hardest to improve land under this form of cultivation. He knows that any rise in production arising from increased efficiency on his part or from improvements in land or in methods of cultivation, will also increase the share of the landowner. Therefore he does not work to the best of his ability and strength and the produce of land remains stationary or decreases. It has been found through experience of ages that this form of cultivation renders even good and fertile lands barren as the cultivator has no incentive to work hard or to

1. *Bukhari*, Urdu Edition, op. cit., Vol. I, P. 524, Nos. 2161-2163,

improve the land.

Forms of Muzaraa :

There is some difference of opinion among the Muslim jurists as to the utility and, hence, validity of the system of share tenancy. But some forms of share tenancy are regarded by the jurists, including *Imam Yousuf* and *Imam Mohammad*, as lawful ; whereas *Imam Abu Hanifa* considers all forms of share tenancy as unlawful.

Unlawful Forms : In *muzaraa*, all those conditions, whose effect is not known, or which are the cause of disputes or loss of right of either of the parties, are considered unlawful. The Holy Prophet forbade some forms of cultivation merely because of this reason as explained by Laiss in the following words :¹

"The forms of cultivation which the Holy Prophet had forbidden were such that no one, having some intelligence and a sense of right and wrong, would have regarded them lawful because they were likely to damage the rights (of the cultivator)."

In view of the welfare of the cultivator and the community, the following forms of cultivation were regarded unlawful by the jurists :

(i) A compact of cultivation in which a certain amount was fixed before hand for the landowner, i.e., a condition was laid that, whatever the produce, the landowner would receive five or ten maunds of corn.

(ii) When the produce of certain sides of the field, northern or southern etc., was reserved for landowner.

(iii) When the produce in certain area, around the water streams or in the sunny part of the field, was kept for the landowner. All these forms of cultivation were unlawful because in these forms either the share of one was fixed and the other was doubtful, or the share of both depended on luck or accident.

(iv) Letting of land to someone on the condition that it

1. *Bukhari*, Vol. I, P. 315, quoted by M. Taqi, op. cit., P. 195.

would be kept with him so long as the landowner wanted and would disown him whenever he so desired.

As it contained the germs of injustice to the cultivator or fear damage to his rights in the case of withdrawal of land from his possession which could render him destitute and helpless. It is, therefore, an essential condition for the validity of *Muzaraa* that the period of the compact must be determined.¹

(v) When both the cultivator and the landowner shared in the land but one supplied the seeds and the other agricultural implements etc.

(vi) When the land should belong to one, seed to the second, agricultural implements to the third and labour to the fourth ; or in such form in which labour and agricultural implements belong to the third.

(vii) A compact of cultivation in which labour and the land belonged to one and the seeds and the agricultural implements to the other.

(viii) When someone's share should be fixed in the quantity, e.g., ten or twenty maunds of wheat for one and the rest for the other.

(ix) When a certain fixed quantity of crop was to be paid to one partner, besides his share of the produce.

(x) When a different kind of crop (other than the one grown in the field) had to be paid by one party in addition to the produce of the land.

In short, the compact of *Muzaraa* would be valid only when no one's right was jeopardised, and no one's weakness or need was unjustly exploited, and no such condition was laid which would cause disputes between the partners ; and no other condition which had not been determined at the time of the compact and was likely to endanger the right of either of the partners.

Lawful Forms : The following forms of share tenancy were declared lawful :

1. *Fatawa Alamgiri*, Vol. IV, quoted by M. Taqi, op. cit., P. 195.

(i) The compact of cultivation in which land should belong to one and the agricultural implements, the seeds and labour, all these things to the other and it should be agreed between the partners that the landowner would get such part of the produce.

(ii) When the land, the agricultural implements and the seeds, all should belong to the landowner and labour only to the cultivator and it should be settled to the landowner would get such part of the produce.

(iii) A compact in which the land and the seeds should belong to the landowner and the agricultural implements and labour to the cultivator and the shares of the produce should proportionately be settled.¹

(iv) When both should share in the land, implements, seeds and labour and should fix their respective shares of the produce.

(v) *Imam Abu Yousuf* described lawful forms of *Muzaraa* in these words :² If land is given gratis to someone for cultivation, all expenses of cultivation would be borne by the cultivator and all produce would belong to him but *Kharaj* would be paid by the landowner. And if the land is *Ushri*, it would be paid by the cultivator.

(vi) The land should belong to one and both should share in the seeds, labour and the expenses of cultivation. In this case, both would share in the produce. If the land is *Ushri*, *Ushr* would have to be paid from the produce and if the land is *Kharaji*, *Kharaj* would be paid by the landowner.

(vii) When land is given to someone on hire and it is *Kharaji*, then according to *Imam Abu Hanifa*, *Kharaj* would be paid by the landowner and if it is *Ushri*, *Ushr* would also be paid by him. But according to *Imam Abu Yousuf*, if the land is *Ushri*, *Ushr* would be paid by the cultivator.

(viii) If the compact of *Muzaraa* is settled by one-third or one-fourth of the produce then according to *Imam Abu Hanifa*, both *Kharaj* and *Ushr* would be paid by the landowner.

1. *Fatawa Alamgari*, Vol. IV, P. 59, quoted by M. Taqi, op. cit., P. 197.

2. *Kitab-al-Kharaj*, op. cit., pp. 315-316, No. 397.

(C) CASH TENANCY (اجاره)

One form of cultivation during the Caliphate was Cash Tenancy, in which the landowner settled the payment with the cultivator in cash instead of crop-sharing. The cultivator took the land for cultivation on hire and paid a fixed amount of money in cash to the landowner. In this form of cultivation, all produce belonged to the cultivator and the landowner did not get anything except rent (i.e., hire charge).

Thus in cash tenancy the cultivator had to pay annually a fixed amount of money to the landowner which varied according to the fertility of the soil and the nature of crops raised: It was usually fixed per acre or per canal so much amount of money. The compact of cash tenancy is described in the *Muslim* jurisprudence in these words: "All those things for which a contract of hire is permissible, may be paid as rent for the hire of land for cultivation. These are *dirhams*, *dinars* and things of weight and number."¹

In this form of cultivation, the cultivator works harder for he knows that the fruit of his labour will remain with him. He has to pay only a certain fixed sum of money to the landowner, he therefore uses all kinds of fertilizers and good seeds and employs new and modern appliances of cultivation in order to increase the productivity of land. He also tries to get more expensive and multiple crops during the year. Above all he makes all possible efforts to bring about permanent improvements in land. And it is a hard fact that the produce is vastly increased under cash tenancy as compared with that of share tenancy system of cultivation.

As a Partnership: Cash Tenancy during the Caliphate was regarded as a kind of partnership like that of *Muzaraa*; and its position was like mutual partnership. It was in fact a kind of contract according to which the cultivator cultivated the land and paid its hire money in cash as rent to the landowner; or it may be said that the landowner permitted the cultivator to cultivate his land in return for a fixed sum of money.

1. *Mukhtasar-al-Thahavi*, P. 132, quoted by M. Taqi, op. cit., P. 199.

In cash tenancy, all those forms and conditions were observed and considered which have already been discussed under share tenancy (مزارعة). The compact of each tenancy (اجاره) is valid only when it does not injure or damage someone's right. There shouldn't be any conditions in it which might cause disputes or quarrels among the partners. And there shouldn't also be anything which was not settled at the time of the contract and was likely to harm someone's interest.

It was considered much better under the Caliphate, as explained earlier, to give land gratis to someone for cultivation than to let it on hire. However, if the landowner had no other means of livelihood, or the land was likely to remain fallow, he was in that case permitted to let his land on hire and receive rent in return.

We give below almost all the sayings of the Holy Prophet which support cash tenancy system of cultivation :

It is reported that the Holy Prophet said : "When you do not give your land gratis to your brother and keep it fallow, it is better for you to let it on hire in return for rent."¹

Hanzila reports from *Rafey bin Khadij* that he enquired from him if it was lawful to let land on hire for gold or silver and he replied that there was no harm in it.²

Abdullah bin Mufaddal reports from *Thabat bin Zahhaq* that the Holy Prophet had forbidden from *Muzaraa* and permitted letting it on hire and had said that there was no harm in letting it on hire.³

Rafey bin Khadij reports that no one among the *Ansar* cultivated land more than us and we used to give land on rent. We fixed one part of that land for rent but sometimes it grew (rich crop) and nothing was reaped from the other part and *vice versa*. Therefore we were forbidden by the Holy Prophet from this form of cultivation but were not forbidden to give land for cul-

tivation in exchange for gold or silver.¹

It is reported that someone asked *Rafey* about letting land on hire in exchange for payment in *dinars* and *dirhams* and he replied that there was no harm in letting land on hire in return for *dirhams*.²

It is reported that *Ibn Shahab* enquired from *Saeed Ibn al Musaiyeb* whether it was lawful to give land for cultivation in exchange for gold or silver and he replied in affirmative saying that there was no harm in it.²

When *Ibn Shahab* asked *Salim bin Abdullah* about letting land on hire, he replied that there was no harm in it if it was given in exchange for gold or silver.²

Urvah bin Zubair gave his land for cultivation on hire in exchange for gold or silver.²

Companions practised Cash Tenancy : Some companions of the Holy Prophet used to cultivate land on hire in exchange for gold or silver. *Abdur Rahman bin Auf* was one of those who used to take land on hire for cultivation in return for gold or silver.²

Salem bin Abdullah bin Umar was of the opinion that there was no harm in cultivating land of others in exchange for *dirhams* or *dinars*. And once he said that if he had cultivable land, he would have given it on hire for cultivation.² *Ibn Sereen* says that land, in my opinion, is like transferrable wealth. Just as it is lawful to give your capital to others for trade (in return for share of the profit), similarly it is lawful to let your land on hire for cultivation (in return for rent). All those things which are lawful in trading capital are also lawful in land cultivation ; and what is unlawful in the former is unlawful in the latter.³

Imam Abu Yousuf thinks that land is like capital in *Muzar-bah* (مضاربة).⁴ And *Shah Wali Ullah* concludes by saying that it

1. *Nasb-al-Raiya*, P. 181, quoted by M. Taqi, op. cit., P. 199.

2. *Sharh-al-Maani-al-Athar*, quoted by M. Taqi, op. cit., P. 200, and *Bukhari*, Urdu Edition, op. cit., P. 524, No. 2166.

3. *Muslim*, referred by *Mishkat*, quoted by M. Taqi, op. cit., P. 200.

1. *Bukhari*, op. cit., Vol. I, P. 524, No. 2166, and P. 520, No. 2147.

2. *Muatta*, Urdu Translation by Waheeduz Zaman, op. cit., pp. 598-599.

3. *Nisai bab-al-Muzaraa*, quoted by M. Taqi, op. cit., P. 200.

4. *Kitab-al-Kharaj*, op. cit., P. 311, No. 386.

is the opinion of all *Muslim* scholars that it is lawful to give or take land on hire in exchange for *dirhams* or *dinars* or other kinds of wealth.¹

Lawful Under Certain Conditions : It seems obvious from the sayings of the Holy Prophet and the opinions of his companions and well-known scholars and jurists that letting of land on hire for cultivation was permitted during the Caliphate. But it must be made clear that his permission was valid only when such a compact of cultivation was not likely to damage anybody's right or cause disputes or quarrels among the partners. It was an open declaration of the Caliphate that where there was anything of that kind, it must be dealt with very severely by the authorities.

Many incidents can be cited about cash tenancy like that of share tenancy from the life of the Holy Prophet and his Caliphs in which they very severely dealt with irregularities in these matters. A careful study of the conditions of the time seem to show that there were two main reasons for State action in such matters : Firstly, such compacts of cultivation were in vogue among the people which were the basis of mutual strifes and disputes and loss of rights of the cultivator ; secondly the Caliphate discouraged from people from letting their land on hire in order to encourage the landowner to cultivate his land himself (i.e., peasant proprietorship) or give it gratis to others for cultivation.

It may, therefore, be concluded by saying that this system of cultivation is permissible as a compact of partnership between the landowner and the cultivator, when

(i) it is free from the unjust and tyrannical practices of the landowners ;

(ii) there is no fear of disputes and quarrels between the partners ; and

(iii) the rights of the partners (especially the cultivator) are not endangered. But when it becomes an institution of injustice, oppression and suppression, as under modern Zamindari

1. *Maswwa, Sharah, Muatta*, quoted by M. Taqi, op. cit., P. 201.

System, it is declared unlawful in an Islamic State. The Holy Prophet, in fact, declared the prevalent systems of cultivation unlawful and illegal because of the irregularities and unjust practices of the land owners. He condemned the system of share tenancy in very strong words and advised people to cultivate their lands themselves or give them gratis to their brethren in *Islam* for cultivation. The system was retained only on a limited selective basis so that it might not destroy or damage the rights and welfare of some individuals, who were either engaged in some social welfare work, or in defence of the country, or were invalids, minors, or old or sick and were therefore unable to earn their own livelihood. But as a general rule this system was declared unlawful in Caliphate. Even in exceptional cases where permission was granted to let land on hire for cultivation, it was recommended that it should be given in exchange for *dirhams* or *dinars*.

Sharing Fruits of Gardens (مساقاة) : A contract between two persons, one being the owner of a garden and the other the cultivator, by which it is agreed that whatever is produced from the garden shall be shared between them. This system of letting gardens on hire in return for a share of the fruits is called *Masagat* (مساقاة).

During the time of the Holy Prophet :

Letting of gardens on fruit-sharing (مساقاة) basis was very common during the time of the Holy Prophet and his Caliphs. It is well-known that the *Muhajirin* of *Madina* were very poor and had no means of livelihood. The *Ansar* wanted to help their brethren in *Islam*, so they came to the Holy Prophet and asked that their gardens be divided between the *Muhajirin* and themselves. The Holy Prophet did not accede to their request. Afterwards, they asked the *Muhajirin* to look after their gardens in return for the share of the fruits and the Holy Prophet agreed to this suggestion. This contract of gardening is reported by *Abu Huraira* in these words :

"The *Ansar* requested the Holy Prophet that their gardens of dates be divided between the *Muhajirin* and themselves. The

Holy Prophet refused. Then they said that they should provide labour and we would all share in the fruits. The Holy Prophet accepted this proposal."¹

After the conquest of *Khaibar*, the Holy Prophet left the land and the gardens in the hands of the Jews and settled at one-half of the produce. It is reported by many companions of the Holy Prophet that when *Khaibar* was conquered, the Jews requested the Holy Prophet that they be allowed to stay on their lands and gardens and they were prepared to cultivate the land and look after the gardens and share the crop and fruits with the *Muslims* by one-half. The Holy Prophet agreed to their request and added that they would remain there as long as the Caliphate wished them to stay there.

This settlement remained intact till the early Caliphate of *Umar*, when the Jews broke the agreement and began mischief-making. *Umar* then decided to abrogate the treaty with them and transferred them to *Taima* and *Ariha*.²

Opinions of Muslim Jurists :

Most of the jurists are in favour of fruit-sharing system (مساواة) and say that such an agreement is lawful even if no period is mentioned. And *Shah Wali Ullah* thinks that most of the *Muslim* scholars consider this form of compact lawful. But *Imam Abu Hanifa* is of the opinion that fruit-sharing (مساواة) like that of crop-sharing (مزارعة) is unlawful. And he says that, under no circumstance, it can be considered lawful. It is just possible that the forms of fruitsharing in vogue in his time were of such nature that they damaged the rights of either of the partners or encouraged disputes and quarrels between them; and *Imam Abu Hanifa*, seeing these evils and irregularities declared it unlawful.

Unlawful Forms of Fruit Gardening:

There are, however, some sayings of the Holy Prophet which declare the compact of fruit-gardening (مساواة) unlawful. It is

1. *Bukhari*, op. cit., Vol. I, P. 519, No. 2145.

2. *Ibid.*, P. 523, No. 2159.

reported that the Holy Prophet passed by a garden and enquired whose garden was that, *Rafey bin Khadij* replied that that was his and that he had taken that on hire. The Holy Prophet said that he should not take it on hire in return for anything.¹

We have no source to verify why the Holy Prophet forbade *Rafey bin Khadij* from such an agreement. Was it such a compact which was likely to damage or destroy the right of either of the partners, or to lead to disputes among them? Or was it the intention of the Holy Prophet to encourage people to look after their own gardens or to give them gratis to others to benefit from their fruits?

CONCLUSION

There seems to be no agreement among the jurists as to the legality of different systems of tenancy. There are two schools of thought and both quote sayings of the Holy Prophet in support of their views. Some eminent jurists regard this form of cultivation illegal while others think it valid and lawful. Now the question arises, whether this form of cultivation (letting of land on hire) is lawful in *Islam*?

It is true that the Holy Prophet did not approve of this form of cultivation and forbade some of his companions (who were well-known farmers of *Madina*) from letting their land on the basis of crop-sharing by one-half, or one-third, or one-fourth, or even by a certain fixed amount of the produce. And it is true that he gave preference to giving one's land gratis to others over its being let on share or cash tenancy basis. But it is also true that many famous companions of the Holy Prophet used to let their land on hire for cultivation during his lifetime and he did not stop them from this practice.

In order to solve this apparent discrepancy and to understand this problem and to arrive at a practical and workable solution, it is absolutely necessary to thoroughly study and examine the sayings of the Holy Prophet and the various co-relating factors therein which seems to justify giving and taking of land

1. *Kitab-al-Kharaj*, op. cit., P. 312, No. 389.

on hire.

(a) The supporters of this form of cultivation have quoted the following sayings of the Holy Prophet to justify the validity of this system :

(i) *Hanzala bin Qais* reports that he enquired from *Rafey bin Khadij* about taking (or giving) of land on hire for cultivation. *Rafey* told him that the Holy Prophet had forbidden it. Then he asked if it was forbidden to let land on hire on payment of *dinars* and *dirhams*. He replied that there was no harm in that.¹

(ii) *Abdullah bin Umar* reports² that the Holy Prophet granted the lands of *Khaibar* to the Jews on the condition that they would work thereon and cultivate them and should have half of the produce.

(iii) According to *Sa'd bin Waqas*, the owners of land used to let their land on hire in the time of the Holy Prophet.³

(iv) *Abu Jaffar* reports that there was not a single family of *Muhajirin* in *Madina* which did not cultivate land on *batai* at one-third or one-fourth of the produce of the land. And *Ali*, *Sa'd bin Malik*, *Abdullah bin Masud*, *Qasim*, *Urwah*, *Al-Umar*, *Al-Ali*, *Ibn Sereen* and *Umar bin Abdul Aziz*, all used to let their land on hire for cultivation.⁴

(v) *Abdullah bin Abbas* says that the Holy Prophet did not forbid this (*Muzaraa*) but he only said that it would be better for you if you give your land as a gift to your brother than to take a fixed payment (in hire or rent) from him.⁵

(vi) This *hadith* is also reported in this way : That the Holy Prophet did not forbid *Muzaraa* but had insisted on making it a deal of mutual good will and friendship and not of bar-

1. *Bukhari*, Vol. I, op. cit., P. 524, No. 2166 ; *Muatta*, op. cit. P. 598.

2. *Ibid.*, P. 521, No. 2151.

3. *Abu Daud* and *Nisai*, quoted by M. Hifzur Rahman, op. cit., P. 231.

4. *Bukhari*, op. cit., P. 520.

5. *Ibid.*, P. 524, No. 2163, P. 521, No. 2150.

gaining.¹

All that these sayings of the Holy Prophet seem to show is this : that the landowners used to let their land on hire for cultivation during the time of the Holy Prophet. There is no clear and specific injunction of the Holy Prophet to prove the validity of their claim.

Now let us take the first *hadith* reported by *Rafey*. If you examine the wording of this and other *hadith* reported by *Rafey*, you will notice that the Holy Prophet forbade *batai* but did not say anything about cash tenancy. And when *Rafey* said that "there was no harm in letting land on hire for cash", he was giving his personal views and not the opinion of the Holy Prophet.

The second *hadith* is reported by *Abdullah bin Umar*, in which the problem of the State and its subjects is involved and cannot be used to justify letting of land on hire by individuals. It was a temporary arrangement partly as a form of punishment for high treason proposed by the Jews themselves and partly a short-term expediency till the time the *Muslims* were able to manage their lands themselves. It would be a mockery of *Islam* to deduce a fundamental principle validating share or cash tenancy systems from this incident.

Besides, the example of *Muzaraa* between the Holy Prophet and the Jews of *Khaibar*, as explained earlier, is not a compact of cultivation but rather in the nature of a tributary revenue, to be paid in kind, as an indulgence or compromise—It was between the Government and its subjects, whereas the problem under discussion is between the two citizens of a State.

The third *hadith* merely states that some well-known companions of the Holy Prophet used to let their land on hire for cultivation in the time of the Holy Prophet but no specific order of the Holy Prophet is mentioned which may indicate that he approved of this system of cultivation or gave his consent in a

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manner validating it. Besides, in this and similar other *hadith* reported by the companions of the Holy Prophet, some points need further clarification as shown under :

(a) It seems quite possible that the *ahadith* under discussion are related to the early period of the Islamic State, when there was no clear injunction regarding the letting of land on hire ; but later on the Holy Prophet forbade this system of cultivation and the order did not reach those companions of the Holy Prophet for all the people did not stay with him all the time. Besides, with the extension of the State boundaries, his companions spread out in other territories and many new occurrences took place in their absence (in *Madina*) of which the news did not reach them. For instance, when *Abdullah bin Umar* came to know of a *hadith* forbidding the letting of land on hire, he stopped renting land for cultivation, thinking that it might be a new order of the Holy Prophet which he did not know.

Many other instances can be quoted from the life of the Holy Prophet to show that it often happened that an important decision was taken by him in the presence of a few companions and it did not reach many others who were not present at the time.

(b) The sayings of the Prophet, which provide some indication of the evidence of letting land on hire, do not contain any clear injunction of the Holy Prophet. The reporters have merely expressed their personal opinions with regard to letting of land on hire or have reported the prevalent custom of renting land in the country, from which no final conclusion can be drawn as to the validity of this system of cultivation. For instance, various *ahadith* quoted by *Bukhari*, *Muslim* and *Imam Malik* and reported by *Abu Jaffar*, *Ibn Umar*, *Abdur Rahman bin Auf*, *Auroo bin Zubair* and others stating "that the people used to let their land on hire for cultivation," neither specify the time of this practice nor mention any injunction of the Holy Prophet. Similarly, the *ahadith*, quoted by *Bukhari* and *Imam Malik* and reported by *Rafey*, *Saeed bin Al-Museeb* and *Salam bin Abdullah*, stating that "there was no harm in letting land on hire for cash," merely

state their personal views and not the opinion of the Holy Prophet.

The fifth and sixth *hadith* reported by *Abdullah bin Abbas* gives his opinion about *Muzaara* and not the injunctions of the Holy Prophet. On the other hand, it indicates that the Holy Prophet liked that the people should not do *Muzaraa* but give their lands gratis to others for cultivation. It shows that he definitely preferred giving of land gratis to its being let on hire but, because of his great regard and respect for the individual freedom and individual's right to property, he did not forbid this form of cultivation in so many words.

The Holy Prophet has thus given due allowance to the rights and needs of the people, demands of the time and other individual considerations in order that the people in general may not be put to unnecessary inconvenience and hardship. It contains the secret of the existence and progress of society which should neither be subjected to undue restrictions so as to destroy the working capacities of the individual ; nor should it be left absolutely free as to create social parasites in the form of landlords.

The people who are well-equipped with the knowledge of the Holy *Quran* and has the necessary vision and foresight to understand the spirit of *Islam* and the intention of the Holy Prophet, know fully well that when he approves of one of the two things and insists on its use (and dislikes the other and advises against its use), he means to popularize the thing he approves and discourage the other. He does not, however, give a definite prohibitory injunction in order that the Islamic Society might have its necessary elasticity to make it adaptable to the changing needs and circumstances of every age.

Moreover, the land system of that time was so simple and the relations between the landowners and the cultivators were so brotherly and friendly that, under those circumstances, there was no need for it to be forbidden through any injunction of the Holy Prophet. That is why *Shah Wali Ullah* calls this injunction of the Holy Prophet (prohibiting share tenancy system) a

negative order and not negative prohibitory order.

If we carefully study the *hadith*, we notice that those *ahadith* which forbid letting of land on hire are specific and definite and contain a clear injunction of the Holy Prophet disapproving this form of cultivation ; whereas those which are cited in support of this system are neither specific nor definite and, above all, express merely the opinions of the reporters.

We are fully convinced that the Holy Prophet disapproved this form of cultivation and forbade some of the well-known farming families of *Madina* from this practice. The system of cultivation at the time was very simple ; it was free from the evils of Modern Zamindari system and was practised in the form of partnership, in a very friendly and brotherly spirit, the Holy Prophet, therefore having shown his disapproval for the general tenancy system, permitted his companions to earn their living by letting their lands on hire for cultivation.

Even if it is proved that some of the companions of the Holy Prophet used to rent out their lands during his lifetime and that he did not stop them from this practice, it is not sufficient evidence to validate the system of cultivation for all times in the Islamic State ; partly because it was disapproved by the Holy Prophet in very clear and explicit words ; and partly because it was a temporary measure which was adopted to cope with the situation of that time in the best interest of the community. And it seems very likely that the Holy Prophet, in view of the General Welfare of society, did not stop his companions from letting their lands on hire. The decision of the Holy Prophet not to invalidate this form of cultivation immediately in the Islamic State was based on many factors as explained below :

Social Welfare and the Principle of Selectivity :

It seems that the prohibition of this form of cultivation was the universal rule in the Islamic State and was enforced by the Caliphate, but certain people, who were engaged in social welfare or public utility works and could not find enough time to attend to their lands ; or who were engaged directly or indirectly

in the defence of the Islamic State and were therefore unable to look after their lands, had to be provided with some means of livelihood by the State. When we study the list of people who gave their lands on hire for cultivation, we feel fully convinced that they were undoubtedly the most outstanding companions of the Holy Prophet, who were engaged in such functions which were intimately connected with the general good of society and were indispensable for the very existence of the Islamic State.

Moreover, it should not be forgotten that the grants of land were mainly given to the *Muhajirin*, who were poor and destitute and had no means of livelihood. They were always prepared to fight in the way of God and had very little time for cultivation of their land and were, therefore, forced (by circumstances) to give their land to others for cultivation in order to get their living. As they had the ideal of the service of *Islam* ever in the forefront of their hearts and for which they fought all their lives, it was fit and proper, in view of the needs of the time, that they be allowed to let their land on hire for cultivation.

Thus it seems most probable that these cases, where the Holy Prophet permitted letting of land on hire, or did not stop them from this practice, might be based on and covered by the principle of selectivity. The Holy Prophet might have allowed these people to let their land on hire for cultivation on selective basis ; when it was thought that, by not permitting them, greater damage would be done to the rights of the individual concerned than the gain to the common good of society. Each case was decided on its merits and the people whose interest was likely to be adversely affected by this prohibitory order were permitted by the Holy Prophet to continue letting their land on hire for cultivation in order to earn their livelihood.

A Measure of Expediency :

A perusal of the sayings of the Holy Prophet seems to indicate that it was merely a short-term measure which was adopted at the time to enable those, who were engaged in much nobler and beneficial pursuits of life, to make their living from land. Besides, the people were used to this form of cultivation since

ancient times, it was neither proper nor advisable to abolish it in this manner. Therefore, the Holy Prophet, after doing a little pruning of the most undesirable and unjust elements, permitted this system for the time being and even adopted it himself on behalf of the Caliphate in the case of the lands of *Khaibar*. But the wording of that contract need careful study.

The last words of the Prophet that "We would keep you here so long as we like it" are a clear indication that this compact of cultivation with the Jews of *Khaibar* was made as a measure of expediency and could be terminated when the need for it no longer existed. But in this case, the Jews broke the contract during the Caliphate of *Umar* and were therefore forced to leave *Khaibar*.

Protection of Individual Rights :

This was probably another factor which could have influenced the decision of the Holy Prophet not to invalidate the entire institution of tenancy. *Islam* recognises individual's right of ownership of all moveable as well as immovable property and places no restrictions on any person as to the quantity of land (or other property) he may inherit from his relatives. This is because *Islam* does not intend to encroach upon anybody's rights or damage anyone's interest ; what it wants to do, however, is to safeguard the general good of society and protect the rights and interest of the individuals.

It has condemned letting of land on hire of cultivation in order to safeguard the general good of society ; it was necessary partly to stop the oppression of Zamindari system and the evils of absentee landlordism ; partly to discourage idlers and suckers who live on others' labour ; and partly to encourage cultivation through peasant proprietorship.

The Holy Prophet was fully conscious of individual needs and individual circumstances, when he forbade some of his companions from letting their land on hire and allowed others to continue renting out their land for cultivation. As a general policy of the Islamic State, he disapproved the system of cultiva-

tion and therefore stopped the former from this practice ; but in order to protect individual rights, he gave due consideration to their needs and special circumstances and, in consequence, permitted the latter group of people to continue letting their lands on hire cultivation. In fact, it was absolutely essential to give due consideration to individual needs and their special circumstances and to protect them from this prohibitory order forbidding letting of land on hire.

There is no denying the fact that in every society there would always be a large number of women, children, the sick, the aged and the invalids, who would be dependant upon their land for their livelihood. And it would neither be in the best interest of society, nor of such people, to stop their only source of income and make them dependant upon the State. The Holy Prophet, therefore, made provision for the need of such people, when he permitted some of his companions to continue letting land on hire or when he did not stop some of them from cultivating land on this basis.

Spirit of Partnership and Friendship :

Above all, it was a simple system of cultivation in the form of partnership between the landowner and the cultivator and was based on a spirit of friendship and cooperation between the two partners. It was a brotherly deal between two friends, one of whom supplied his land and necessary capital, while the other supplied his labour. It was free from the evils of Zamindari system and absentee landlordism, where a few idle parasites own thousands of acres of land, exploit, tyrannise and usurp the rights of hundreds of poor men and women and lead a life of extravagant luxury.

Chapter 11

OWNERSHIP OF LAND

Introduction :

The problem of ownership of land is very important for on its equitable and just solution depends the success and prosperity of agriculture. If the cultivator works on the land as a mere tenant, he is not likely to work hard and take much interest in its improvement ; but if he is given rights of ownership over the same land, he will work day and night and convert deserts into gardens as is described by Sir Arthur Young in the following words :¹

“The magic of ownership turns deserts into gardens. This increases the produce of land many-fold, agriculture develops and the people prosper. On the one hand, in Zamindari system, the produce of land decreases and the cultivators lead a life of serfs. This is why the economists are against Zamindari system and favour peasant proprietorship. During the last forty years, partly due to the movement of peasant proprietorship started by the economists, and more due to the Russian (and the Chinese) revolution, landlordism has been abolished in most of the European countries and their land distributed among the cultivators and rights of ownership conferred upon them so that they should take interest in the cultivation of land and help to increase the produce of the country.”

1. *Travels in France*, Vol. I, P. 88 and Vol. II, P. 51.

Effects of the Laws of Inheritance : *Islam* struck a severe blow at landlordism by abolishing the custom of primogeniture under which the entire estate was inherited by the elder son and nothing was left for the other heirs. The Islamic Law of Inheritance makes the division of land obligatory, after the death of its owner, among its rightful owners. The landed property of the deceased, rich or poor, is divided compulsorily among his sons, daughters, father, mother, wife and other near relatives, (in shares) as determined by the Holy *Quran*. And thus after the death of its owner even a big estate is divided into small landholdings ; and, in fact, Zamindari system can never take its root in an Islamic society, if the *Muslims* strictly follow the Injunction of the Holy *Quran* as contained in the following verse :

“Men shall inherit what their parents and other relations of kinship leave at their death, and so shall women receive from them ; whether the portion is great or small, all shall get their prescribed share.” (4 : 7)

Problem of Ownership : Now the question arises : to whom does land belong ? Whose right to the land be recognized ? Should individual ownership of land be recognised, or should it be declared state property ? The United Kingdom and some European countries have recognised the individual's right to own land ; some Asian countries have granted the right of inheritance and sale and purchase of land to the landholder, but have conferred the ultimate right of ownership upon the state. In Russia and China, on the other hand, the landholders have been totally deprived of their right of ownership and the land has been declared state property.

Islam advocates a middle course in between these extremes : it keeps the ultimate ownership in the hands of the Islamic State but grants the right of its actual use, its sale and purchase and even inheritance to the landholder. Thus for all practical purposes, the landholder is recognised the owner of land ; but his right of ownership is very much limited for the Islamic State reserves the right to take over his land whenever it is thought to be in the best interest of society (as will be explained later).

According to the Holy *Quran*, the land, the heavens and the earth and all that they contain belong to God. In other words, land is a free and universal gift of God, like air, water, sunshine etc., and as such is meant for the common use and benefit of the whole community :

"The earth belongs to God : He gives to His servants as He pleases." (7 : 128)

In Sura '*Al-Waqia*' :

"See you the seed that you sow in the ground. Is it you that cause it to grow, or are We the cause." (56 : 63-64).

These verses of the Holy *Quran* seem to show that land is a free gift of God and it is beyond the power of man to add anything material to it. And as land is an important factor of production, the problem of its ownership must be decided on entirely different grounds from that of other factors of production. It is not the result of human labour but is a free gift of God and is created for the benefit of all alike. Any form of ownership which prevents its proper and productive utilization for the benefit of society would be against the spirit of this injunction of the Holy *Quran*. In the words of late Dr. Muhammad Iqbal, 'This thing (land) is not the result of labour of any particular individual or nation but is a free gift of God ; in which every member of the state possesses (an equal) right of ownership or use.'¹

Secondly land is not like other commodities one owns or possesses ; one may have an article of furniture or a pair of shoes which one never or rarely uses and no one bothers about it because it does not hurt anyone. But the case of land is quite different, if it is not properly used, or left fallow for a number of years, it is a national loss which the community can never tolerate. As such, when any landholder abuses his right of ownership in this way, the state has the right either to force him to properly use his land, or to take it away from him and

1. Khalifa Abdul Hakim, *Islam and Communism*, 3rd Edition, 1962, pp. 122-123.

give it to another person who can use it in a better way for the benefit of the community.

Thirdly the supply of land is limited and cannot be increased at will like other factors of production ; with increase in population and rise in the demand for goods, supply of other factors of production can be increased to meet the rising demand, but supply of land is permanently fixed and cannot be increased to meet the rising demand for it. Thus social utility of land becomes all the more important as the pressure of population increases. Therefore, it is absolutely essential that its absolute ownership must vest in the community and not be given to any individual.

Fourthly land is required by the state for multifarious purposes, e.g., pastures, public gardens, playgrounds, railways, canals and for other public utility works and national requirements. If the individual is given the absolute right of ownership, it would be very difficult if not impossible for the state to acquire land for all those national and local requirements. *Islam* therefore confers the right of benefit, sale and purchase and even inheritance of land on the individual but gives the absolute ownership of land to the Islamic State.

The early Caliphate sometimes fulfilled the functions of 'landlord' by advancing funds for making improvements in land and also by providing irrigation facilities without extra-charge in the form of increased rent (or *Kharaj*) from the landholder. And the Caliphate had full proprietary rights over the lands, especially state lands, barren, waste and dead lands and had the full powers to expropriate any land, which it thought was not properly utilized, by paying reasonable compensation to the landholder.

Right of Ownership as Trustee : *Islam* recognises individual's limited right of ownership of land because it does not think that private ownership of land is the real cause of injustice and disruption in society. On the contrary, it is the absence of moderation and balance in private ownership that leads to friction and disruption in society. *Islam* has solved this very

difficult problem by giving the absolute ownership to the community and the right to benefit (i.e., the relative or factual ownership) to the individual. It declares that land and everything else of this universe belongs to God and man is given the right to use them in the capacity of 'Vicegerent of God' on earth. And he has the right in this capacity to benefit from land (and from other things), so long as he does not damage the greater good of society.

The following verses of the Holy *Quran* declare that all things on earth and in the heavens belong to God and that man benefits from them as His 'Vicegerent' :

"And to God belongs whatever is in the Heavens and whatever is in the Earth." (4 : 132)

"Then We made you rulers (Vicegerents) in the land after them, so that We might see you how you act." (10 : 14)

"And spend of that whereof He has made you heirs (Vicegerents on earth)." (57 : 7)

Thus man as 'Vicegerent' of God on earth is the guardian of everything (including land) and, as such, he has the right to use it, but he is expected to benefit from it without endangering the greater good of society. In other words, his right to use and benefit from land is limited and conditional : It depends on how he uses his right to benefit from it. The community is prepared to recognise his right of use which, in a way, can be called right of ownership, if he respects the rights of the community and honours his obligations to it. But the Islamic State reserves the right to take over individual property whenever it finds that the right is being abused, or is not properly exercised, or there is alternative and better use of that property.

Community's Right to Withdraw this Trusteeship : Thus man enjoys the right to benefit from land so long as he keeps the trust of the community and does not endanger its common good by mis-using his right. Whenever the community finds that he is abusing his right, or is not properly using the land for cultivation, or is leaving it fallow for too long, then it has the right

to withdraw its trust from particular person. There is ample historical evidence to prove that the Caliphate took back many grants of land from the original recipients whenever it was found that they were not properly cultivating them, or were leaving their land idle for a number of years.

The Holy Prophet had given *Bilal* a grant of land which he could only partially cultivate and a greater part of it was left uncultivated. *Umar* told him to bring the whole tract of land under cultivation but he failed to do so. *Umar* thereafter forcibly took over from him that part of the land which had not been cultivated. Another person was given a grant of land by the Holy Prophet but *Umar* took away that part of it which was not cultivated by him. The people of *Bajillah* were given grants of land but after two or three years, the land was needed by the Caliphate and therefore *Umar* took away their land. They were not given any compensation, but afterwards were given some financial aid by *Umar*.

Thus the Islamic State reserves the right to expropriate lands under the circumstances described above, but we find no example in the life of the Holy Prophet or his four Caliphs, of expropriation of land without reasonable compensation. The Holy Prophet bought the lands of the Jews of *Madina*, when they were asked to leave because of their continued hostility towards the *Muslims*. *Umar* paid handsome prices to the Jews for their lands in *Khaibar*, *Fidak* and *Wadi-al-Qura*. Christians of *Najran* and *Yemen* were paid liberal compensation for their lands either in cash or in the form of equivalent land in other countries where they were settled.

So whenever any land was taken from its rightful owner by the Islamic State reasonable and handsome compensation was paid to them ; and the owners, whether *Muslims* or non-*Muslims*, were never dispossessed without compensation by the Islamic state.

Nationalisation of Land : It may here be pointed out that the term 'nationalisation' of land as used by communists or socialists is quite foreign to the Islamic system and, when used

in this context, it conveys altogether different meaning from that of the communists or socialists. The *Muslim* jurists have often used the term state property instead and it simply means this : that in an Islamic State, land, being a natural gift of God, belongs to the people who all as 'Vicegerent' of God on earth, share in His gift and individuals merely keep it as a 'trustees of the community and benefit from it. They however enjoy the right of its sale, purchase and inheritance ; in other words for all practical purposes, they are considered its owner, so long as they do not abuse this trust and use it properly in the best interest of the community.

It may also be noted that the concept of state property as such was first of all used by *Islam* and did not exist in the old world. All kinds of lands which came into the possession of the *Muslims* were declared the property of the Caliphate. It distributed some of these lands among the poor *Muhajirin* and *Ansar* and the fighters, and kept some under its own control and management ; but the ownership of all these lands belonged to the Islamic State. The ownership of the Caliphate applied to all kinds of land (i) whether they belonged to the people who had accepted *Islam* (ii) or to those who had contracted into Islamic State but had not changed their faith ; (iii) or to those who had been conquered by force ; (iv) or to those which were owned by no one, e.g., dead or waste lands (اموات), or lands whose owners were either killed or fled away during fighting.

It is true that the Islamic State guaranteed the safety and protection of life and property of all its citizens from internal as well as external aggression or interference ; and this guarantee was given to all alike, irrespective of their caste, colour or creed, by the Holy Prophet. This declaration confirmed the right of the landholder to benefit, sell or purchase and inherit land without any fear of interference from inside or outside the country ; but it does not reflect in any way that he was the absolute owner of his land and that the State had no right on his land. On the contrary, it simply means this : that the Islamic State took every possible step to maintain peace and security in

the country, so that its citizens could enjoy their life and exercise their rights freely without any fear of interference from any quarter. But it does neither indicate that the Islamic State had withdrawn its own right of ownership, nor does it rule out the possibility of state interference in case of mis-use of their right to benefit from land. In fact, the guarantee, given by the Holy Prophet to the land holders, refers to the relative ownership which they enjoyed as trustees of the community and this right was protected by the Caliphate so long as they held the trust ; but this right was no longer held sacrosanct when they were likely to abuse their right.

During the Time of the Holy Prophet : All the lands which were conquered by force or without force during the life of the Holy Prophet belonged to the Caliphate ; and the Holy Prophet distributed some of these lands among the *Muslims* and some were kept for meeting state expenses. All wealth and landed property, as explained earlier, was regarded as state property and the Holy Prophet as head of the Islamic State, was given full authority to utilise it in the best interest of the community.

Lands of *Banu-Quraiz* and *Banu-Kanuka* were conquered by force and those of *Banu-Nazir*, *Fidak* and *Taim* were conquered without fighting ; but both types of lands were distributed among the *Muhajirin* and poor *Ansar*. Lands of *Khaibar* were conquered by force and were divided into thirty-six shares, eighteen of these shares were reserved for the Caliphate to meet state expenses, while the other eighteen were divided among the *Muslims* in such a way that hundred persons shared in one share. The land of *Fidak* was assigned to the Holy Prophet as head of the Islamic State to meet his personal and state expenses. The land of *Wadi-al-Qura* was declared State property but was left with the original inhabitants on the same terms of cultivation as those of the Jews of *Khaibar*. The lands of *Yammah* and *Hadramaut* were also declared State property and the Holy Prophet gave some lands in grants to the people. All wealth and landed property of Mecca was acquired by force but was returned to the inhabitants of Mecca.

Briefly, about one million acres of land came into the possession of the Islamic State during the time of Holy Prophet; the general practice was this: lands conquered by force were distributed among the fighters, and those acquired without fighting were declared state property and the Holy Prophet was given full authority to deal with it. But the lands of those regions, which were annexed in the Islamic State on the request of their inhabitants who had embraced *Islam*, such as *Hammah*, *Hadramaut*, *Oman* etc.; or which belonged to the people of the Scripture and the fire-worshippers, who had agreed to pay Poll-Tax, were declared state property and left with the original inhabitants for cultivation on agreed conditions. The unclaimed lands whose owners had been slain or fled away during fighting were taken over by the Islamic State and declared as state lands (خالص), some of these lands were distributed among the fighters.

During the Time of Abu Bakr: The system of land grants remained unchanged during the Caliphate of *Abu Bakr*; he gave some grants of land to the deserving persons and confiscated the lands of those who had become apostates after the death of the Holy Prophet. Their right of ownership and to benefit from their lands was terminated by the Caliph, as described by the historian *Tabari* in these words: "When the apostates were over-powered and their rising proved ruinous for themselves and peace was restored, then *Banu-Thalibah* and old inhabitants of that area came back to occupy their homes, but the people who had occupied their homes did not let them succeed. They came to *Abu Bakr* in *Madina* and asked why they had been checked from occupying their lands? *Abu Bakr* replied, "You are telling a lie, your possession over that land has ended. This area is now under my possession and use (as the head of the Islamic State),"¹ So he rejected their demand and, against their wishes, converted that land into a pasture for the horses of the *Muslims*. Later on all that area was reserved as pasture for the horses received in *Zakat*, and its use was forbidden to other people.

1. *Tabri*, events of the year 12 *Hijra*, *Khilafat-e-Rashida*, quoted by Dr. Yousuf-ud-Din op. cit., Vol. I, pp. 313-314.

During the Caliphate of Umar: In the time of *Umar*, when Syria and Iraq were conquered, the *Muslims* asked for the division of these lands among the fighters. *Umar* made up his mind to divide them when *Muaz bin Jabbal* advised him not to do so in these words: "By God! If you divide these lands, the consequences of this will be such as to make us all dislike them. Large amount of wealth will come in the possession of a few persons and when they die, it will be confined to a group of people. And after them will come other people who will give their lives for the sake of *Islam* but will get nothing. Therefore adopt such a course as to cover the good of the first and the last."

When some *Muslims* insisted on the division of land, then *Umar* said:¹ "If I had no consideration for the *Muslims* who would come after (us), I would have distributed every town that was conquered among the fighters as *Khaibar* was divided by the Holy Prophet." He did not take any decision for many days, but consulted the famous companions of the Holy Prophet from amongst the *Muhajirin* and the *Ansar*. Some companions of the Holy Prophet, included *Bilal* and *Abdul Rahman bin Auf*, insisted on the division of these lands among the fighters. *Abdur Rahman bin Auf* said that these lands and their inhabitants had been given to them by God as spoils of war, therefore they must be distributed among them. But *Umar* replied:

"The country that will be conquered after me will not be of great benefit; and it may actually prove burdensome on the *Muslims*. If land of Iraq along with its inhabitants is distributed and so the land of Syria, how will the borders be defended? What will be given to the children and widows of Syria, Iraq, this town (i.e., *Madina*) and of other towns?" The people argued with him saying that the booty which God had bestowed upon them with the help of their swords, he wanted to reserve that for such people who had not taken part in fighting. That he wanted to give that to the children and grand children of such people who were not present at the time of fighting.

1. *Kitab-al-Kharaj*, op. cit., pp. 158-159.

Then Umar sent for ten *Ansar*, five leaders from *Al-Khazraj* and five from *Al-Aus*, who had enough experience of agriculture, and commencing with the praise of God said: "I have given you this trouble that you may share in my responsibilities, for I am just an ordinary individual like you. You are the people who can maintain justice, while some people have opposed me and some have favoured me, I don't want that you should follow me; you have Book of Wisdom (the Holy *Quran*) amongst you. When I say anything that I want to do, my intention is to do good (to the people)." They all replied, "O *Amir-al-Muminin*! Say, we will listen to you." Umar continued, "Have you heard these people who say that I want to usurp their rights, and I seek God's protection that I should be an oppressor. If I take away from them anything which is theirs and give it to others, I am unfortunate. I say that if all the landed property and its inhabitants are divided as spoils of war among the fighters, and the '*Khums*' (one-fifth) of it is spent on its usual items of expenditure as mentioned in the Holy *Quran*, and no country is conquered after the land of *Kisra*; How are then we to meet the expenditure of the state and its needy inhabitants? I am of the opinion that all these lands be declared as state property and *Kharaj* be levied on them and Poll Tax on their inhabitants, so that it may be used as '*Fai*' (ج) for the benefit of the soldiers' children and other *Muslims* who will come after them."¹

"Don't you people know that many soldiers are required to defend the frontiers from the enemies? Don't you know that it is essential to protect towns like *Al-Jazira*, *Al-Kufa* and *Basra* with the help of big standing armies, who should be given allowances for the maintenance of their families. If all land and its inhabitants are divided among the people, where from these grants would be paid?"¹ All the *Ansar* agreed with Umar that if the frontiers and the big towns were not protected with armies and their grants were not fixed, all the non-believers would return to their towns. Thus after a long discussion with *Ansar*

1. *Kitab-al-Kharaj*, op. cit., pp. 159-161.

and *Muhajirin*, Umar reached the conclusion that the entire land of the conquered countries be regarded as state property and left with the original inhabitants in return for the payment of land revenue (*Kharaj*) to the Caliphate.¹

Imam *Abu Yousuf* sums up the concluding remarks of Umar in these words: "When great stress was laid on the division of land and discussion continued for three or four days, then Umar said: "I have found an argument in support of my opinion from the Book of God which says:¹

"Whatever God took from the people (of villages) and bestowed on the Prophet, you pressed not towards it with horse or camel. But God gives His Messenger power over whomsoever He Wills." (59 : 6)

This verse was revealed to the Holy Prophet with regard to the land of *Banu Nazir*, while the following verse of the same *Sura* with regard to other villages and towns.

"The spoils taken from the people of the villages and assigned by God to His Messenger, it belongeth to God and to the Messenger, and his relatives, the orphans, the needy and the wayfarer; that they may not be (for ever divided) in a circle among such of you as are rich. What the Apostle shall give, that accept; and he shall forbid you, that abstain from: and fear God; for God is severe in chastisement." (59 : 7)

In the same *Sura* it is further stated that:

"A part also (belongs) to the poor Muhajirin, who have been dispossessed of their houses and their substance, seeking favour of God, and (His) good-will, and assisting God and His Apostle. These are the men of veracity." (59 : 8).

Besides these others have been included in the spoils as stated in the next few verses of the same *Sura*;

"And in it there is share for those who quietly possessed the town (of Madina), and (professed) the faith (without molestation), before them, love him who hath fled unto them, and find in their breast no want of that which is given (to the Muhajirin)

1. *Kitab-al-Kharaj*, op. cit., pp. 161-167.

but prefer (them) before themselves, although there is indigence among them. And whoso is preserved from the covetousness of his soul, those shall surely prosper." (59 : 9).

Further on are mentioned the needs of those who will come after them :

(A part for them) who have come after them and they say, O Lord ! forgive us and our brethren who have preceded us in faith and put not into our hearts ill-will against those who have believed. O Lord ! Verily Thou (art) compassionate and merciful" (59 : 10).

"Thus there is a share for all future generations in this landed property and, on this basis, all lands in the conquered countries become the common property of all the people alike. As such, it is not possible for me to distribute these lands among those who are present and deprive the others who are to come later." After a good deal of arguments, *Umar* succeeded in converting them to his views and thus the lands of these countries were declared public property and were not divided among the *Muslims*. Among other reasons why *Umar* did not distribute those lands among the fighters, was that the supply of land unlike other factors of production, is limited and cannot be increased. If its absolute ownership was granted to the fighters, it would deprive all future generations of its benefit.

Caliphate of Othman and Ali : After *Umar*, *Othman* and *Ali* also adopted the same course with the land of conquered countries. They declared all lands as state property and did not distribute them among the fighters.

Imam Abu Haneefa is of the opinion that land is the property of the nation. In his own words, "All parts of the Islamic State are under the authority of the Muslim people." And *Imam Abu Yousuf* also regards the state as the sole owner of all kinds of lands and the rent collected from the land as the property of all the *Muslims*.¹

1. *Kitab-al-Kharaj*, op. cit., pp. 253-258.

Conclusion : There is nationalisation in the sense that all land belongs to the state; but it does not exclude the existence of private property in an Islamic State which recognises the individual's right to property. Thus there is partly nationalisation because all land is the property of the state in an Islamic society; and partly private ownership because the landholders enjoy all the rights of ownership as far as the use of land is concerned. There is, however, one thing that private ownership is not absolute; absolute ownership belongs to the state and the individual landholders enjoy only the right of benefit, sale, purchase and of inheritance. Besides, even this right of benefit is very much limited, for the state reserves the right to interfere whenever the national interest demands it and, if desirable or appropriate, buy it on a reasonable price.

The Islamic State ordinarily does not interfere in the private property of individuals provided they do not injure the rights of others, or damage the common good or stand in the way of the greater good of society. But when the landholders abuse the right of ownership of land and do not use it properly in the best interests of society or leave it fallow for long periods and do not cultivate it, the state has the right to interfere and even take away their land after paying them reasonable compensation.

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Imam Abu Haneefa is of the opinion that land is the property of the nation. In his own words, "All parts of the Islamic State are under the authority of the Muslim people." And Imam Abu Yousuf also regards the state as the sole owner of all kinds of lands and the rent collected from the land as the property of all the Muslims."¹

1. *Kitab-al-Kharaj*, op. cit., pp. 253-258.

Conclusion : There is nationalisation in the sense that all land belongs to the state; but it does not exclude the existence of private property in an Islamic State which recognises the individual's right to property. Thus there is partly nationalisation because all land is the property of the state in an Islamic society; and partly private ownership because the landholders enjoy all the rights of ownership as far as the use of land is concerned. There is, however, one thing that private ownership is not absolute; absolute ownership belongs to the state and the individual landholders enjoy only the right of benefit, sale, purchase and of inheritance. Besides, even this right of benefit is very much limited, for the state reserves the right to interfere whenever the national interest demands it and, if desirable or appropriate, buy it on a reasonable price.

The Islamic State ordinarily does not interfere in the private property of individuals provided they do not injure the rights of others, or damage the common good or stand in the way of the greater good of society. But when the landholders abuse the right of ownership of land and do not use it properly in the best interests of society or leave it fallow for long periods and do not cultivate it, the state has the right to interfere and even take away their land after paying them reasonable compensation.

Chapter 12

LANDLORDISM OR JAGIRDARI SYSTEM

Jagirdari System : Jagirdari System means in general a system of cultivation in which the cultivators are not the owners of the land they cultivate, but are mere tenants. Theoretically, therefore, even a person who owns a few acres of land, say 2 or 3 acres, may be called a landlord, but for practically purposes only a person who owns vast tracts of land on which work dozens (or even hundreds) of cultivators, who are mere farm workers, can be called a Landlord or Jagirdar and his farm a Jagir.

It is a "way of production the distinguishing mark of it being the existence of a perpetual system of serfdom. It is a system wherein the landlord or his representative is entitled to receive a fixed share of production and enjoy certain specific economic rights, carrying with them the privilege to make their tenants serve them or instead thereof receive payments from them in cash or kind." In fact under this system there are two classes of people :¹

(a) The Owners of Jagirs.

(b) The Tenants.

The tenant cultivator does not enjoy any rights under this system ; he does not own the land he cultivates, nor does he enjoy the right to sell or inherit it. He is very often compelled

1. Mohammad Qutb, *Islam the Misunderstood Religion*, op. cit., P. 113.

to work in the land of the Jagirdar without any wages or compensation.

Under this system there are a few Jagirdars who own thousands of acres of land and enjoy a life of ease and luxury on the labour of others ; whereas on the other hand, there are hundreds of thousands of cultivators who work from morning till evening on the land under most unfavourable circumstances and unfriendly atmosphere, but hardly get enough even to satisfy their bare necessities of life. They do not own even their own simple one-roomed huts in which they spend all their life of misery and poverty.

It is true that *Islam* recognises the individual's right to property and allows him to purchase or sell land (or any other commodity) freely ; but it is also true that it does not favour or advocate the existence of institutions like landlordism or Jagirdari. In fact, it condemns all such institutions which lead to oppression in society and usurp the 'Right to Equality', 'Right to Freedom,' and 'Right to Livelihood' of the individual and reduce him to a state of serfdom and slavery. It does not even approve of ordinary and simple form of cultivation (*muzaraa*), which contains element of injustice to either of the parties, how can it allow an oppressive and unjust system of Jagirdari.

The Holy Prophet forbade all those forms of cultivation, (as discussed earlier in another chapter) which were unjust to the tenant or were likely to violate his fundamental rights. "The only relationship that *Islam* recognises as lawful between the peasant and the landlord is either that of contract or that based on tenancy. In the former case the peasant is required to pay to the landlord a fixed amount as the rent of the land proportionate to its produce and after that he remains quite free in his cultivation and all the produce of the land belongs to him. If he happens to be a tenant, he will share the produce of the land at the end of every year with the landlord. In such a case all the expenses are borne by the landlord ; the peasant provides the labour only. In both of these cases there is no place for forced labour, dictatorial privileges or any other obligation incumbent

on the peasant to serve his master without getting anything in return."

"Both parties rather enjoy full equality in freedom, in their rights as well as duties with a reciprocity of mutual give-and-take relationship. The peasant is, in the first place, quite free to choose the land he would like to hire or the landlord he would prefer to work with as a tenant. Secondly, he is on a par with the landlord and enjoys as much freedom to decide or agree to the amount for the contract to be paid by him to the landlord. If he does not find the bargain profitable he is free to back out of it and not agree to the contract, the landlord having no power or right to take him to task for that. As a tenant the peasant enjoys as much legal privileges as his landlord." "The only factor which does restrict the choice of a peasant with regard to his acquiring a lease of land in *Islam* is his own free will and financial potentiality. The lessor enjoys no privileges against this save that of claiming the agreed upon rent of the land from the peasant. Similarly in tenancy the extent of the land to be farmed by a tenant is determined by his own physical ability or the number of the helping hands (consisting of his sons generally) he can get hold of. The duties imposed on him in tenancy are no more than what the rehabilitation of the land acquired by him may necessitates. The land in such a case is considered as a common property of the peasant and the landowner till it brings forth its produce."¹

Thus it is not the factor of ownership as such that leads to the growth of Jagirdari system, but the manner of its possession and the nature of relationship between the landlord and the tenant that favours its growth. This is why Jagirdari system cannot exist in an Islamic State even though the right of ownership and private property is recognised because moral teaching and mental training of the individuals develop such a spirit of friendship and close relationship between the landlord and the tenant as do not favour the growth of such oppressive and unjust

1. Mohammad Qutb, *Islam the Misunderstood Religion*, op. cit., P. 121.

system of cultivation.

As the Holy Prophet granted lands to his companions and afterwards his Caliphs also gave such grants of land, some people conclude that Jagirdari is lawful in *Islam*. They justify Jagirdari system and quote small landowners, who gave land on hire for cultivation during the time of the Holy Prophet and his four Caliphs, as examples of the existence of Jagirdari in the Islamic System. They however forget that they were not the Jagirdars in its true sense but were in fact those poor *Muhajirin* and *Ansar* who had no means of livelihood and were given these lands by the Caliphate to enable them to meet their needs. To compare those petty landholders, who could scarcely meet their needs with the income from their small landholdings, with the modern Landlords and Jagirdars, who are social parasites and suck the blood of weak members of society to increase their economic and political influence in the country, is to do great injustice to the fair name of those companions of the Holy Prophet.

A cursory study of the problem of land distribution during the early Caliphate shows that it was a temporary measure adopted in emergency to meet the needs of the time. Besides, the grants were given in such quantities as could provide the recipients only with means of livelihood, for large grants were given mostly to *Muhajirin*, who were very poor and had no means of living. They had left their homes and possessions and had come to *Madina* penniless; to leave them in starvation, when the *Muslim* state was extending beyond the frontier of Arabia, would have been great injustice to them. Then also the economy of the *Ansar* was not very progressive and they had to bear the burden of a large number of *Muhajirin*. Under these circumstances if, grants of land were given to them to improve their economic position, they cannot be called Jagirdars or their grants compared to modern Jagirs in order to find any justification for this oppressive and unjust system of cultivation. In fact, the word Jagirdari in modern terminology, does not apply to those small landholdings, therefore it would be absolutely ridiculous to compare them to modern Jagirdari system.

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There is undoubtedly no place for extravagant landlords or luxurious Jagirdars in *Islam* and this is clearly indicated by the nature and purpose of these grants as evidenced below :

Lands of Banu Nazir : When the land of *Banu Nazir* was being distributed among the *Muhajirin*, two *Ansar* named *Sahl bin Haneef* and *Abu Dujanah*, who mentioned their poverty to the Holy Prophet, were also given a share of the land. Then the Holy Prophet addressed the *Ansar* in these words : "Your brethren the *Muhajirin* have no possessions, if you wish I will divide these lands among the *Muhajirin* alone." The *Ansar* replied, "You may divide these lands and any thing from our possessions that you may think proper among the *Muhajirin*."¹

This clearly shows that the grants were given to the poor *Muhajirin* and *Ansar* who had no means of livelihood and that they cannot be compared to modern Jagirs.

Caliphate of Umar : Many new countries were conquered during the Caliphate of *Umar* and their lands were not divided among the *Muslims* but were left in the possession of the original inhabitants. This was because *Umar* and other companions of the Holy Prophet, who were aware of the evils of Jagirdari system under the Romans and the Persians, could not allow the growth of that oppressive system in the Islamic society.²

Caliphate of Othman and Ali : After *Umar* his successors, *Othman* and *Ali* who had previously advised *Umar* not to distribute the land of Iraq and Syria for it would lead to the evils of Jagirdari system, followed the same policy.

Conclusion : Though some people used to give their land on hire for cultivation during the time of the Holy Prophet, it is a fact that he had explicitly shown his dislike even for that simple form of cultivation. And he had empowered the Islamic State to forbid this system of cultivation, whenever it was found likely to damage the interest of the cultivator or lead to disputes between them and create a state of mutual hatred and enmity in

society.

In the economic system of *Islam* there may be evidence for the justification of, at the most, a land system in which the landowner and the cultivator are regarded two partners in the compact of cultivation, but the Jagirdari system, with big estates and Jagirs owned by a few landlords who are the masters of the life and property of the cultivators, has not even a distant relationship to the Islamic society. On the contrary *Islam* regards the system of cultivation unjust and oppressive and therefore declares it unlawful. This system under which scores of villages and vast areas of land are in the possession of individuals so that besides the land, the cultivators are also mortgaged and are forced to work, like slaves, for the personal gratification of the Jagirdar, are not to be found in the Islamic society. When *Umar* found this form of cultivation practised by the Romans as oppressive and unjust, he completely abolished it and made it permanently unlawful ; so much so that ownership of land in the conquered countries was given to the State instead of individuals.

Simple form of cultivation and Jagirdari System : It may however be pointed out that *Islam* forbids only the oppressive and unjust forms of cultivation and permits simple forms of cultivation free from such evils. This assumption is supported by the sayings of the Holy Prophet cited in the previous chapter. *Rafey bin Khadij*, who is the reporter of the *Hadith* which condemns Jagirdari system, says that this prohibitory order of the Holy Prophet applied to particular forms of cultivation which were based on injustice and favouritism and jeopardised the rights of the cultivator. According to him, the Holy Prophet disallowed those forms of cultivation which were against the canons of equity and justice and where there was danger of wrong to the cultivator.

Thus this prohibitory order of the Holy Prophet was in fact against certain unjust forms of cultivation and not against the system of cultivation by hire itself. A similar *Hadith* is reported by *Zaid* who says : that because in the time of the Holy Prophet there were many disputes and quarrels regarding land cultivation

1. *Al-Kharaj-le-Yahyah*, P. 34, quoted by M. Taqi, op. cit., pp. 33-34.

2. *Kitab-al-Kharaj*, op. cit., P. 167, No. 102.

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between the cultivators and the landowners, the Holy Prophet forbade it for good for some time but he did not forbid the very compact of cultivation based on justice with a reciprocal respect and perfect equality between the parties. In other words, the Holy Prophet forbade only those forms of cultivation which were likely to violate the rights of the cultivator, or to cause disputes among the partners, but not the absolute forms of cultivation by hire which may be beneficial to the community.

We would not therefore be wrong if we say that, in view of the character of the modern Jagirdar and the cultivator and the nature of relationship between them, the dominant materialist influence of the West and the increasing needs of the people, it would be extremely difficult for the modern Jagirdar to be fair and just to the tenant and avoid disputes arising thereof. And as the existing system of cultivation is unjust and inequitable, it can never be justified in an Islamic society.

It would also be utterly wrong to compare these large estates or Jagirs with the small landholdings of the companions of the Holy Prophet and then to seek justification for the establishment and continuance of this oppressive system of cultivation. A religion which did not approve of simple forms of Jagirdari which were in vogue in the form of *Muzaraa* (مزارعة) and *Ijarah* (إجارة) among the *Muslims* during the Caliphate, how can it be expected to justify such an oppressive and unjust system of cultivation like Jagirdari. And it is the unanimous opinion of the *Muslim* Scholars that the landowner can give his land on hire and can be termed as Landlord, but it provides neither any justification for the unjust and oppressive system of Jagirdari, nor any scope for big estates and Jagirs in an Islamic society.

Chapter 13

RIGHTS OF TENANTS

A study of the problem of Jagirdari System and Landownership has thrown sufficient light on the rights of the tenant cultivators during the early Caliphate. It has shown how *Islam* brought a complete change in the very outlook of people towards cultivation and in the relationship between the cultivator and the landowner. It improved the financial as well as social position of the cultivator and granted him specific rights which were protected by the Islamic State from encroachment by the landowner or any other party. We summarise here some of the rights enjoyed by the cultivator under the Caliphate :

1. **Contract of Partnership :** The compact of cultivation was regarded like a partnership between the landowner and the tenant cultivator ; and it was necessary that its conditions were just and equitable. The landowner was not allowed to take undue advantage of his strong position and enforce such conditions on the tenant as were too burdensome on him. The Holy Prophet, as quoted earlier, did not approve of any compact of cultivation in which the tenant was not placed on equal footing with the landowner.

Most of the evils of the Modern Jagirdari system are due to the fact that the conditions of the contract are not decided by the parties on equal basis, but are merely the command of the landowner to which the tenant must agree, willingly or unwillingly. The conditions are generally inequitable for the tenant

who remains oppressed all his life.

2. Reasonable Remuneration : Remuneration of the tenant must be reasonable and sufficient to enable him to acquire the necessities of life for himself and his family. In order to achieve this objective, his remuneration was fixed in the light of the Islamic principle of 'Right to Livelihood', so that it was not less than this minimum. As a result, the tenants could hope to receive a fair return for their labour under the Caliphate.

3. Rights and Duties : It was necessary that the rights and duties of both the cultivator and the landowner must be clearly stated in the compact of cultivation; the minimum as well as the maximum share of each must also be decided before cultivation of land by the tenant. It should also be stated what form of *Muzaraa* (مزارعة) was to be considered valid by the parties.

4. No Extra Work : It was illegal for any landowner to take free or extra work from his tenants without any compensation. According to the principle of equity, the tenant was not to be forced to do any other work but that connected with the cultivation of the land. The Holy Prophet established complete equality between the landowner and the tenant in these words: "They (tenants) are your brethren whom God has placed under your employment. So if God has made any of your brethren work under you, give him the same thing that you eat or wear and do not trouble him with what is beyond his capacity. And if you do give him heavy work, then you should assist him in his work."¹

At another occasion the Holy Prophet said:² "Give some share of his work to the labourer for God's worker should never be deprived of this (right)." The Holy Prophet once remarked that he would prosecute on the Day of Judgement that man who had not paid the wages of a labourer after taking work from him."³

1. *Bukhari*, Urdu, op. cit., Vol. I, P. 13, No. 29.

2. *Ibid.*, op. cit., Vol. I, P. 120, No. 425.

3. *Ibid.*, op. cit., Vol. I, P. 501, No. 2095.

5. No Increase in the Landowner's Share : It was illegal for any landowner to charge more than the agreed sum of money or share of the crop from the tenant. The Caliphate took all the necessary steps in order that the law was fully enforced in letter and spirit.

6. No Tax : The landowner was forbidden to levy any tax on the tenant over and above the fixed rent or produce.

7. No Eviction : The cultivator could not be evicted from his land if he regularly paid his rent to the landowner. It was compulsory that the condition for eviction of the tenant must be clearly stated in the contract. If the cultivator regularly paid his rent, no one including the Caliphate, had the right to evict him without proper and sufficient evidence against him. According to *Allama Shami*, "So long as the cultivators pay their rent, the state lands, called *Arze-Hauz* (ارض حوز) should not be taken from their possession. Besides, it is neither lawful to buy or sell this land, nor to inherit it, after the eviction of the cultivators (for it belongs to the state) and not to any individual."¹

8. Contract must be Written : The conditions of the compact of cultivation should be made in writing and should not be left to mere oral agreement between the parties.

9. No Land to be Left Fallow : In order to further strengthen the position of the cultivator, the Caliphate placed many restrictions on the landowners to discourage them from leaving their land fallow for more than three years. *Umar* confiscated some grants of land from the companions of the Holy Prophet who left it fallow for a long time and did not cultivate it.

10. Other Rights of Tenants : The Officers of the Caliphate were specially instructed to treat them kindly and gently in the collection of rent. And those found guilty of mis-behaviour to the tenants were severely punished by the Caliphate.

It was unlawful to auction farming equipment or agricultural implements in case of non-payment of rent by the tenant, for it was equivalent to depriving him of his means of liveli-

1. *Kitab-al-Kharaj*, op. cit., pp. 242-245 and P. 257.

hood. Once *Ali*, the fourth Caliph, told a rent collector : "Look here ! when you go there neither sell their winter or summer clothes, nor the things of their daily requirement, nor their animals of cultivation to collect *Kharaj* (rent) ; nor flog them nor make them stand on one leg (a very common punishment of those times), nor sell anything from their household utensils to collect *Kharaj*."¹

Measures Adopted by the Caliphate : The Caliphate adopted several measures to improve the condition of the tenants at that time. Some of the measures are summarised below :

(a) *Help from State Treasury :* The cultivator was given financial assistance from the state treasury whenever he was unable to work on the land, or whenever his crop was destroyed, or he was involved in other financial troubles. He was also assisted by the Caliphate in purchasing agricultural implements, seeds etc.²

(b) *State Grant :* He was given state grant if he became old or sick or invalid and unable to cultivate the land.²

(c) *Compensation for Damage :* If the Officers of the Caliphate were in any way responsible for the damage or loss of his crop, he was paid reasonable compensation from the state treasury.³

(d) *Compensation on Eviction :* If eviction of the tenant was unavoidable owing to political expediency or to some national interest, he was paid reasonable compensation and provided all possible facilities to settle at another place. *Umar* evicted the cultivators of *Wadi-al-Qura*, *Najran* and *Fidak* but paid them full price of their land and property and helped them to settle on other lands.⁴

Rights of Landowners : The Islamic State protects the right of all its citizens alike, whether tenants or landowners. The

Caliphate recognised the rights of the landowners like that of the tenants and protected their property from being damaged by any other party. They enjoyed the following rights under the Caliphate :

(a) *Right to Buy and Sell Land :* The landowner had the right to buy and sell land freely according to his own needs. Many companions of the Holy Prophet sold their lands during the Caliphate :¹ *Abu Rafey* sold the land which he had received from the Holy Prophet ; *Abdullah bin Masud*, *Utbah bin Farqad*, *Hassan*, *Hussain*, and *Khubab bin Artat* bought *Kharaji* lands and paid taxes on them.²

Abu Bakr Jassas says that there is no harm for a *Muslim* to buy *Kharaji* lands ; and according to the writer of *Hidaya*, it is a proven fact that the companions of the Holy Prophet bought (and sold) lands freely.³

(b) *Right of Will :* The landowner had the right to bequeath one-third of the land, like that of moveable property, to any one of his relatives or friends or aliens. He could give it to his friends or relatives or any charitable institution.

(c) *Right to Leave it to a Trust :* He had complete freedom to leave his land or property to a Trust for the common good of society. *Umar* left his share of the land of *Khaibar* to a Trust so that its income could be spent in the service of God.⁴ *Ali* gave his land and house in Egypt to a Trust ;⁵ *Talha* gave his most cherished gardens to a Trust in order that its income could be used in the service of God.⁴ *Umar bin al Aas* gave houses in Mecca and Madina,⁵ *Saad* gave one house in Madina and one in Egypt, *Arqum* gave one house in Madina,⁵ *Abu Bakr* and *Zubair* and *Umar* gave their houses in Mecca, to the Trust.⁵

It may however be pointed out that once any land or pro-

1. *Al-Kharaj-le-Yahyah*, P. 75 quoted by M. Taqi, op. cit., P. 285.

2. *Kitab-al-Kharaj*, quoted by M. Taqi, op. cit., P. 281.

3. *Ibid.*, P. 119, quoted by M. Taqi, op. cit., pp. 282-283.

4. *Ibid.*, P. 45, quoted by M. Taqi, op. cit., pp. 283-284.

1. *Kitab-al-Kharaj*, op. cit., pp. 245-249.

2. *Al-Kharaj-le-Yahyah*, pp. 57-58, quoted by M. Taqi, op. cit., P. 135.

3. *Ahkam-al-Quran*, Vol. III, P. 127 and *Hidaya*, Vol. I, quoted by M. Taqi, op. cit., P. 136.

4. *Bukhari* quoted by M. Taqi, op. cit., P. 134.

5. *Nasb-al-Raiya*, quoted by M. Taqi, op. cit., P. 134.

perty is given over to the Trust, the owner loses his right to benefit from it ; for then it is entirely the responsibility of the Trust to manage it or use its income for the specified purpose.

(d) *Right to give to anyone for use* : The owner of non-transferable property, e.g., land, houses, gardens etc., had the legal right to give it to anyone to benefit from it for some time (وقت) without conferring the right of ownership. The Holy Prophet referred to this right of the landowner in these words :¹ "Whoever has land should himself cultivate it or give it gratis to his brother for cultivation." This right of the owner to permit others to benefit from his property may take different forms as given under :

Loan for Temporary Use (منحة) : It refers to such grants of land or property which are given free to anyone to benefit without conferring the right of ownership. It simply means this : that a land or property is lent by its owner to a person for only temporary use, and may be taken over by him whenever he wishes or after a specified period of time. The grantee has the right to use and benefit from the land or property ; he works with his labour and capital and owns the produce, while the grantor owns the land but not the produce. He benefits from such land or property as long as he likes or till the end of the period of grant, thereafter the land or property reverts to the original owner.²

The following verse of the Holy *Quran* refers to this right of man to benefit from one's land or property :

"He brought you forth from the earth and made you dwell in it." (11 : 61)

According to *Mujahid*, it means that God enabled man to settle down in the earth and to benefit from it during his lifetime.³ And *Abu Bakr Jassas* says that *Umra* (عمرى) is like a grant which is given to anyone to benefit from it during his lifetime. This

type of grant (عمرى) was given in the following three ways during the Caliphate :¹

Firstly, someone was given the land for cultivation, or a house to live in and was told that he and after him his descendants were its owners.

Secondly, the land or property was given to someone without mentioning whether it would remain with his descendants after his death or revert to the grantor.

Thirdly, the land or property was given to someone and it was mentioned at the time of the grant that he would use it so long as he lived and after him his descendants.

In all the above-mentioned cases, the grantee became the owner of the land or property and after him his descendants according to Islamic Law and the conditions mentioned by the grantor at the time of the grant were considered void. In the words of the Holy Prophet : "Whoever gets a grant (عمرى), it is for him and for his descendants, who will inherit it as they inherit other things."² And at another occasion the Holy Prophet said : "Grant (عمرى) will become the property of the person who receives it."³

As the conditions of such grants (عمرى) were generally based on ignorance and were likely to cause disputes between the parties, the Holy Prophet declared all the conditions null and void and recognised the grantee as the lawful owner. The same applied to a grant called *Raqbah* (رقبة) which was very similar to *Umra* (عمرى) and the grantee was declared the lawful owner.⁴

1. *Bukhari*, Urdu, op. cit., Vol. I, P. 524, Nos. 2161-2162.
2. *Muslim*, *Abu Daud*, *Aini*, Vol. VI, P. 316, Imam Navayi, Vol. II, P. 12, quoted by M. Taqi, op. cit., pp. 138-139.
3. *Ahkam-al-Quran*, Vol. III, P. 203 quoted by M. Taqi, op. cit., P. 139.

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2. *Abu Daud*, quoted by M. Taqi, op. cit., P. 141.
3. *Bukhari*, *Muslim* and *Tirmizi*, quoted by M. Taqi, op. cit., P. 141.
4. *Imam Nisai*, *Umdat-al-Qari*, Vol. VI, P. 308, quoted by M. Taqi, op. cit., P. 144.

Chapter 14

IRRIGATION

Introduction : Means of irrigation play a very important part in the development and expansion of agriculture, especially in countries where dry farming is still carried on in the greater part of the country and where there are vast regions entirely dependent on rainfall, such as Arabia and other Middle East countries, with a total rainfall completely inadequate for agricultural purposes ; it is a truism to state that agricultural production and development will be largely determined by facilities in the shape of irrigation works. Thus in countries where there is uncertainty, scarcity and uneven distribution of rainfall, irrigation as an aid to agriculture is of supreme importance. Besides, owing to the necessity of producing crops all the year round, many areas require artificial supplies of water, and irrigation is the only source of assuring the supplies of regular and adequate water facilities. By helping agriculture, irrigation has definite economic values ; it stabilises agriculture, prevents famines and adds to agricultural prosperity.

In view of the great importance of irrigation, the Caliphate did not allow individual ownership of canal or river water, but recognised the equal right of all alike to benefit from it. The Holy *Quran* gives equal right to all the creatures of God to benefit from this source of production :

"And We made from water everything living." (21 : 30)

Then in Sura '*Al-Waqi'ah*' :

"See you the water which you drink ? Do you bring it down from the clouds, or are We the Bringer ?" (56 : 68)

Man is here explicitly told that water is not the result of his efforts but is a gift of God, for all alike, therefore no individual has any right to deprive others of its use.

And in Sura '*Al-Shūra*' :

"He said: This is a she-camel, she has her portion of water, and you have your portion of water at an appointed time." (26 : 155)

Thus water is the joint property of all and to give preference to one over another, or to check people from its use is to damage their right :

"And inform them that water is shared between them ; every share of water shall be attended." (54 : 28)

The Holy Prophet explained this basic principle of equality for all in the use of water in these words :¹ "All men are equal partners in the use of water, fire and grass." At another occasion the Holy Prophet said : "Don't stop anyone from using surplus water."² And during the Caliphate water was regarded common property and was kept open for the use of all people. It was illegal to check anyone from irrigation, or to receive any tax therefrom, or to sell water to anyone, for it was meant for the common use of all, like that of air, sun, moon etc. And in the words of *Muslim* Jurists, "All people are co-sharers in the use of water like sun, moon or air."³

Forms of Irrigation During the Caliphate : The Caliphate used different types of irrigation in order to provide adequate water facilities to agriculture in different parts of the country as given under :

Natural Springs and Rivers : All natural water, which came from rivers, springs and rainfall, was preserved in valleys and tanks and was used for irrigation by all the people. Everyone

1. *Kitab-al-Kharaj*, op. cit., P. 328, Nos. 421-424.

2. *Bukhari*, Urdu, op. cit., Vol. I, P. 527, No. 2172.

3. *Fatawa Alamgiri*, Vol. IV, P. 170, quoted by M. Taqi, op. cit., P. 210.

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had equal right to take water from these sources to irrigate his land by any means at his disposal, e.g., water-streams, embankments etc. The people were free to adopt any method of irrigation provided it did not damage the source of water, or interfere with the irrigation works of others, or violate the rights of others. In these circumstances, the Caliphate had the right to stop that individual from adopting such a method of irrigation but not from using water.

Allama Aini explains this principle in these words :¹ "One form of water is that which is never owned by anyone and all people equally share in it, in drinking, watering their cattle, and digging canals or streams to irrigate their fields ; and big rivers like the Nile and Euphrates come under this category. All people equally share in using such water and have equal right to benefit from it, so long as they do not interfere with the same rights of others or do not damage the common good."

Canals : Second type of irrigation used during the Caliphate was canals and streams which were constructed by the state or dug by individuals. These canals were of different types : Sometimes these were constructed by the Caliphate and sometimes dug by the people themselves ; Sometimes the inhabitants of an area dug them for their own use and sometimes individuals dug it with their own labour and capital for their own use. All these canals were of four categories.

(i) *State Canals* : It was considered the duty of the Caliphate to construct canals from the rivers, to repair or improve them, to build bridges, embankments etc , and adopt other possible means to make irrigation works available for the use of all people. All the expenses on irrigation works were paid from the treasury and, if needed, from taxes and other emergency sources, as described by *Imam Yousuf* : "It is the obligatory duty of the Caliph to dig small canals from big rivers for the benefit of the public and to repair and improve them ; and to repair the breaches in embankments etc."²

1. *Aini*, Vol. VI, P. 3, quoted by M. Taqi, op. cit., P. 211.

2. *Kitab-al-Kharaj*, Urdu, op. cit., P. 330, No. 431.

Many canals were dug during the Caliphate of *Umar* : canal "*Abu Musa*" was dug from the river Tigris for the inhabitants of *Basra* ; canal "*Saad*" for the people of *Kufa* and canal "*Ameer al Mumineen*" for the people of *Cairo* were the famous canals constructed during that time. After *Umar* hundreds of canals, including the famous canals "*Sar*", "*Dabees*", "*Asawar*", "*Umro*", "*Harab*" etc., were constructed by the Caliphate. In general state canals were like natural water in which all people equally shared without paying any levy or tax to the Government or any one else. And it was illegal to stop anyone from using these canals.¹

(ii) *Private Canals* : Some canals were dug by the inhabitants of a region or by some individuals for their personal use. The Caliphate generally granted permission for such canals if it did not damage the common good or violate the rights of other individuals. In these canals, all people equally shared in drinking and watering their cattle, and even in irrigating their land if its water was in excess of the need of its owners. And no one could take any tax in return for the use of water from these canals, nor could stop anyone from using their surplus water in irrigating their land. The Holy Prophet forbade the sale of water.²

Once *Abdullah bin Umar* received a letter from the man, who was looking after his land, that he had settled at thirty thousand *Dirham* for the surplus water from his land. He replied that you should allow your neighbours to irrigate their land with the surplus water according to the usual custom for the Holy Prophet had forbidden the sale of water.² And according to *Imam Malik*, it is not lawful to stop your neighbour from using the surplus water.³

The owners of these canals were required to keep their canals in good condition and if they did not comply with the

1. *Allama Shibli Numani*, "*Umar the Great*" English translation, by M. Saleem, 1957, pp. 83-88.

2. *Kitab-al-Kharaj*, op. cit., pp. 325-327. Nos. 418-420.

3. *Kitab-al-Amwal*, P. 302, quoted by M. Taqi, op. cit., 215.

state regulations, the Caliphate had the right to take them under its control and management.¹

Springs : There were three types of springs which were used for irrigation purposes during the Caliphate : (i) Natural Springs which came into being by themselves without any effort on the part of any man. The position of such springs was like that of natural rivers and oceans, i.e., all equally shared in their use. (ii) People's springs which were dug by the people and (iii) Private springs which were dug by individuals in their own land.²

All these springs belonged to those who had dug them out, but the surplus water could be used by the neighbours to irrigate their land without any charge. And it was unlawful to stop others from using their surplus water for irrigation, or to charge anything for the use of their surplus water. The owners of these springs, however, had priority over others in irrigation and other facilities and, if others could get water easily from other sources, they had the right even to stop them from using their water.

Tanks : All tanks, ponds, streams etc., which were dug with the expenses from the state treasury were equally shared by all alike ; the people had the right to use surplus water of those tanks and ponds which were dug by individuals. When there was disagreement among the people regarding irrigation from *Manharur* (منهرور), a famous valley of *Banu Kuraiza*, the Holy Prophet said :³ "The people of the garden should irrigate according to their needs, and the people of the fields according to their needs, and then leave the surplus water for the people of the lower slopes. And again when there was disagreement between *Zubair* and one *Ansari* regarding irrigation from one stream, the Holy Prophet told *Zubair* to leave the surplus water after irrigating his fields.⁴

1. *Kitab-al-Kharaj*, op. cit., P. 324, No. 414.

2. *Ibid.*, op. cit., pp. 335-339.

3. *Al-Kharaj-le-Yahyah*, quoted by M. Taqi, op. cit., P. 219.

4. *Bukhari*, op. cit., P. 528, Nos. 2176-2178.

Wells : Wells were also used for irrigation and they were of three types : (i) Those dug by the Caliphate ; (ii) Those dug by the people of a town or a village ; and (iii) Those dug by individuals in their own lands, or in someone else's land with the permission of the landowner.¹

All people without any preference equally shared in the first two types of wells. In the third type of wells, the owner had no right to stop other people from drinking and watering their cattle, but had the right to stop them from using it for irrigation purposes. This right to stop others from irrigating their fields was valid only if such an act on the part of other people was likely to damage the interest of the owner ; but if it did not damage his interest, then he had no right to stop others from using his well for irrigation purposes because it meant limiting and restricting the use of water which was against the spirit of Islam.

1. *Bukhari*, op. cit., P. 528, Nos. 2176-2178.

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Chapter 15

PROBLEM OF WAGES

Definition : Wages may be defined as the price which is paid to the labourer for his services in the production of wealth. Labour, like any other factor of production, is paid a remuneration for its services which is called wages. In other words, wages are the price of labour paid for its services in production. In the words of Professor Benham, "A wage may be defined as a sum of money paid under contract by an employer to a worker for a service rendered."¹

Importance : The problem of wages is so important and its effects so wide that the whole society is affected by it. If the labourers do not get a just and reasonable wage, it will not only affect the purchasing power and hence the standard of living of the labourers and their families, but will indirectly affect the whole community for they consume a large portion of the national product. A fall in their purchasing power will in the long run adversely affect all those industries which are supplying consumers goods to the working class. And, as all the industrial and other enterprises are interdependent in the modern world, this fall in the demand for consumers' goods on the part of the labourers will be felt by all industries throughout the country. Thus economically it would be suicidal for a country to deprive its labour force of its just share from the national dividend.

Besides, injustice to the working class would spread discon-

1. *Economics*, 2nd Edition, 1940, P. 231.

tentment and frustration among them and might lead to industrial action in the form of strikes. These trade and industrial disputes have caused much greater annual damage, in time and money, to the employers in the capitalist countries than would have been done by a slight increase in the wages of their employees. It is therefore absolutely essential that great care should be taken in determining the wages of the working classes.

How Wages are Determined ? There is wide difference of opinion among the economists on this problem : What a labourer should get or how the wages should be determined ? Few economists agree. Many theories have been put forward by various economists ; some say wages are determined by subsistence level, others emphasise the role of the Marginal Productivity in determining the wages. And there are a number of theories between these opposing views offering their own solution of the problem of wages which we need not discuss here (those interested may read some important books on the subject).

Islamic Point of View : *Islam* offers a very amicable solution of the problem of wages and safeguards the interest both of the working class and the employers. The labourer gets a reasonable wage without infringing the legitimate rights of the employer. The employer is not allowed to tyrannise the working class by depriving them of their rightful share, while the latter are not given over the entire National Dividend so as to deprive the former of his rightful claim.

The wages are determined in a most equitable fashion without undue favour to or undue oppression on any side. Each party gets its legitimate share of their joint product without being unjust to the other. The principle of equality for all is referred to in *Sura 'Al-Baqara'* in these words :

"Wrong not and you shall not be wronged." (2 : 279)

Both the parties in the contract (of wages) are here warned to be fair and just to all in their dealings, so as neither to do wrong to others nor to damage own interest. Wrong to the labourers means that they are not paid just and legitimate share of the joint pro-

duct in proportion to their work ; while wrong to the employers means that they are forced by the industrial action to pay in wages to the labourers more than they can afford. Thus the Holy *Quran* commands the employer to pay due share to the labourers according to their work, and at the same time safeguard his own interest. And if he fails to comply with this Injunction of the Holy *Quran*, he would be considered an aggressor and wrong doer and would be punished accordingly in this world by the Islamic State and in the Hereafter by God. Similarly the labourers would be declared aggressors if they through industrial action force the employer to pay more than he can afford. The same principle of justice is referred to in *Sura 'Al-Jathiyah'* in the following words :

"And God created the heavens and the earth with Truth ; that every soul may be rewarded for what it has earned, and they will not be wronged." (45 : 22)

This fundamental principle governs human activities for their reward in this world and in the Hereafter : That every man shall be paid for what he has earned and no wrong will be done to any soul. Thus it guarantees fair wages to every worker according to what he has contributed to production ; and any diminution in his earning, without there being any corresponding decrease in his contribution, is considered unjust and wrong. This verse makes it quite clear that wages of every man should be determined by his work and contribution to joint product, and that he should be paid neither less nor more than what he has laboured for.

Again this principle is mentioned in *Sura 'Al-Ahqāf'*.

"And that He may pay them for their deeds and they will not be wronged." (46 : 19)

And in *Sura 'Al-i-Imrān'* ;

"Then shall every soul be paid back fully what it has earned, and they will not be wronged." (3 : 161).

Although there is reference in these verses to human reward in the Hereafter for their deeds in this world, the principle of

justice mentioned here can however be applied to human earnings in this world. As such, every one should be fully rewarded in proportion to his work and no one should be treated unjustly. The labourer should get his wages according to his contribution to production ; while the employer should receive his profits in proportion to his capital and contribution to production. Thus every one shall have his due share from the National Dividend and no one shall be wronged.

Level of Wages : In view of the principle of justice wages in a Muslim society will be determined through negotiation between the labourers, the employers and the state. The interest of both the wage-earners and the employers will be taken into account quite impartially in arriving at any decision with regard to wages. It would be the duty of the Islamic State to see that wages are fixed at a level that they are neither so low as to deprive labourers of their elementary necessities of life, nor so high as to deprive the employer of his just share of the joint product. In order to establish an equitable wage level in the country, it would be necessary to fix the minimum wage-rate, taking into consideration the changing needs of the working class below which wages should not fall under any circumstances ; and this minimum rate must be reviewed occasionally to make adjustments according to changes in the price level and the cost of living. The maximum rate will of course be determined by the contribution of the labour and will vary accordingly.

Minimum Wage-Rate : The labourer in relation to the employer is in a very weak bargaining position, and there is always a possibility that his interests will not be properly protected and safeguarded. In view of his weak position, *Islam* has taken great care to protect his rights from any encroachment by the employer. It has made it incumbent upon the employers to fix the minimum wages which should cover the basic necessities of life, including food, clothing, shelter etc., so that the labourer should enjoy a reasonable standard of living. Provision of the basic needs is mentioned in these words :

"Surely it is granted to thee therein that thou art not hungry,

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"Surely it is granted to thee therein that thou art not hungry,

nor naked, and that thou art not thirsty therein, nor exposed to the sun's heat." (20 : 118-119).

The word "*tazmau*" (تَظْمُو) means to be thirsty; or to desire anything earnestly; or longing for; this seems to suggest that the word "*tazmau*" (تَظْمُو) refers not only to simple thirst for water but also thirst (or need) for education and medical aid. Thus it is the duty of the Islamic State either to provide them from public maintenance or fix minimum wages at a rate which should enable them to acquire all these needs. They should be able to obtain sufficient food and clothing and adequate shelter and be in a position to provide good education to their children and medical facilities to their families. And if these elementary needs are not adequately covered by the wages, it would adversely affect the efficiency of the working population and thereby the national wealth of the country. Besides, dis-contentment among the working classes would breed hatred and class conflict in society which would ultimately destroy its integrity and unity and, consequently, lead to economic and social annihilation.

There is another verse in *Sura 'Hud'* which also points to the fact that the *Muslim* state is responsible, directly or indirectly, to provide minimum sustenance to all its members!

"And there is no animal in the earth but on God is the sustenance of it." (11 : 6).

A Muslim state, being the Vicegerent of God on earth, is supposed to make provision for sustenance for every member of the state. As such, its prior duty is to see that every worker in the state gets sufficient wages to maintain a reasonable standard of living. And it should never allow the wages to fall below that minimum level which enables the worker to obtain all his basic needs.

The Holy Prophet always advised his companions to treat their servants well and pay them generous and handsome wages.

It is reported that the Holy Prophet said: "Give food and clothing to the servants and slaves according to the prevalent

custom and impose such burden (work) on them that they can bear."¹ This *Hadith* clearly suggests that wages of labourers should be high enough to cover their basic needs according to the standard of living of that time. And this should be regarded as the minimum level below which wages should not fall in a Muslim society.

Abu Dhar reports that the Holy Prophet said: "They (your slaves or servants) are your brethren, God has placed them under your control; so whoever has his brother under his control should feed him from what he (himself) eats and give him clothes the like of which he (himself) wears; and do not impose on them task which should be too hard for them, and if you impose on them such a task, then help them (in doing it)."²

This *Hadith* clearly lays down:³

(i) That the employer and the employee should regard one another as brothers in Faith and not as master and slave. This change in the attitude of the employer will surely improve their relations. When the employer regards his employee as his brother (merely to seek the pleasure of God), he would be very generous in paying him good wages, so that he might be able to cover all his necessary expenses. On the other hand, the employee would take special interest in his work and work hard to the best of his ability and strength. As a result, business would prosper to the advantage of both the employer and the employee and the National Wealth would also increase.

(ii) That the employer should be on the same level with his employee at least in the basic human needs. In other words, the employee should be given reasonable wages high enough to cover their needs. The words of the Holy Prophet "should feed him from that he eats and give him clothes the like of which he wears" provide the fundamental principle which determines

1. *Bukhari*, Urdu Edition, op. cit., Vol. III, Bab-al-Adab, P. 232, No. 983.
2. *Ibid.*, Urdu Edition, op. cit., Vol. III, Bab-al-Adab, P. 232, No. 983.
3. Dr. Yusuf-ud-Din, *Islam Kay Muashih Nazariyat*, op. cit., Vol. II, pp. 369-370.

the minimum wages of the labourers. It demands from the Muslim employers that they should be very generous to their employees in giving wages which should be high enough to meet their economic demands according to the needs of the times.

In fact, this *Hadith* demands "right to livelihood" of the labourers from the employers, so that they may not be thrown in degradation and misery of poverty and hunger. They have worked and helped the employers to the position of prosperity which now they enjoy and, in return, they have the right to claim from them equitable remuneration to meet their customary requirements. Besides, wages should be high enough to enable them enjoy a comfortable life, so that they might come closer to their employer, at least in the satisfaction of their basic needs.

(iii) That a labourer should not be given too heavy or difficult a task which is beyond his capacity, or is likely to put him to great hardship in doing it; and that he should not be made to work for long hours that might tell upon his health. In other words, the nature of work both from the point of view of physical capacity and time, should not be too burdensome for him.

And if the labourer is given difficult and burdensome task, he should be assisted with more labour and capital in order to render his task less difficult and cumbersome. Besides, he must be adequately compensated in the form of extra remuneration for difficult job and longer hours of work.

The Holy Prophet further emphasised the rights of people in these words: "*Anas* reported that the Holy Prophet said: 'None of you will be a (perfect) believer, until you wish for your brother Muslim what you wish for yourself.'"¹

According to *Jarir*, the Holy Prophet said: "God has no mercy on him who is not merciful to (His) men."²

1. *Bukhari*, op. cit., Vol. I, Bab-al-Iman, P. 9, No. 12.

2. *Mishkat*, Urdu translation, published by Noor Mohammad Asahh-al-Matabai, Vol. II, P. 214, No. 4703 (*Bukhari and Muslim*).

Abu Hurairah reported that the Holy Prophet said: "Be merciful to those on earth, that (God Who) is in Heaven will be merciful to you."¹

These sayings of the Holy Prophet are no doubt general in application, but are very expressive and persuasive in demanding equal rights for all, including the labourers, in particular, who are in a very weak position in comparison with the employers. It may however be pointed that it is a commandment to the believers, who do acts of righteousness and goodness for no monetary reward, but merely to seek the pleasure of God. It is expected of such people that they will be generous in giving wages to their employees. It is in fact an attribute of these people that they wish for their brother *Muslims* what they wish for themselves. As such, every *Muslim* employer is expected to give a reasonable wage to his employees merely to seek the pleasure of God; and no *Muslim* employer (provided he is a true *Muslim* and not a conventional *Muslim*) could ever give low wages to his employees which would not buy even the bare necessities of life. In fact, a true *Muslim* employer will feel real pride and pleasure in giving good and reasonable wages to his employees.

Wage-Ceiling: It is true that *Islam* would not let wages fall below the minimum level determined by the basic needs of the working class; and it is also true that it would not let wages rise unnecessarily above a certain level determined by their contribution to production. Just as it is absolutely essential to provide them with at least their basic needs partly for the sake of justice and equity, and partly to maintain their standard of efficiency; it is also necessary to keep wages within reasonable limits so that they may not consume all that is produced, partly for the same reason of justice and partly to encourage and maintain the rate of investment at a reasonable level. Thus it is desirable that there should also be an upper limit beyond which wages should not rise. The following verse of the Holy *Quran* seems to suggest the upper limit of wages:

1. *Bukhari*, Vol. III, op. cit., P. 230, No. 973 (bab-al-Adab).

"There is nothing for man but what he strives for." (53 : 39)

This verse lays down what the labourers can claim from their employers. The maximum wage they may claim from their employers is equal to what they have contributed to production along with other factors of production. The principle of maximum wage is described in another verse in these words :

"And you are not rewarded ought but for what you did."

(36 : 54)

It is a fundamental Law of Nature that anyone who does something bears the consequences in proportion to his action. And human activities in relation to labour are no exception. Every worker shall receive equal to what he has done :

"And We shall certainly give to those who are patient their reward for the best of what they did." (16 : 96)

It is a duty of every employer to pay good and sufficient wages to his employees to enable them to enjoy the goodly comforts of life. People who do not pay adequate compensation to their employees are warned to rectify their abuses and to pay back what is due to others in these words :

"And wrong not men of their dues, and act not corruptly in the earth, making mischief." (28 : 183)

The very act of "not paying other men's rightful dues" is compared here to the actions of those who act corruptly and make mischief in the earth in the manner of aggressors.

And in the light of these verses of the Holy Quran no true believer can ever keep any part of the rightful share of his employees. On the contrary, every true believer, who believes in God and the Day of Judgement, would pay generously to all his employees and in doing so, he would often pay more than their rightful share merely to win the pleasure of God.

Actual Level of Wages : Thus Islam has provided safeguards to protect the rights of both the employer and the employee. The lower level below which wages must not fall protects the rights of the labourer ; while the upper limit above which wages

must not rise safeguards the interests of the employer. Actual wages will move in between these limits according to the laws of supply of and demand for labour, which, of course, will be influenced by the customary standard of living of working class, the effective strength of their organisations, and the attitude of the employers reflecting their belief in God and the Day of Judgement.

As a result of the inter-action of all these forces, wages will be fixed somewhere between the minimum and the maximum level determined by the customary standard of living and contribution of the labourers respectively. Wages will move nearer to the level of customary standard of living of the labourers if their organization is weak and less effective and the employers' belief in God and the Day of Judgement is doubtful. If, on the other hand, labourers' organisation is strong and the employers' belief in God is firm, wages will move nearer to the upper limit of their contribution to production. However, the Islamic State will play its proper role in determining a reasonable and just wage for labourers.

If wages at any time fall below the minimum level, the Islamic State has a legal right to interfere and fix the minimum wage according to the needs of the time. But, if proper Islamic teaching is given to the people to strengthen their belief in God and the Day of Judgement and to develop in them a spirit of self-sacrifice, wages will never fall below the required level and the state will rarely feel the necessity to interfere. When the employers are fully conscious of their duty to their employees, they are likely to pay them sufficient wages to cover their basic needs. How can the employers forget the saying of the Holy Prophet that "wish for your Muslim brother what you wish for your self", if they really are true believers and seek the pleasure of God in the service of humanity.

In fact in a truly Muslim society wages would be sufficiently high to bring the employees nearer to their employers at least in matters of their basic needs.

WAGES OF GOVERNMENT SERVANTS

Wages of Government servants are often taken as an index to the wages of labourers in general. In fact, wages of Government servants do exercise enormous influence on the general level of wages in other industries in the country. As the Government employs the largest number of labour force in its industries and Civil and Military services, its wage-rate is bound to have great influence on the market rate of wages in private industries. It is therefore absolutely vital that the wage-rate of Government servants must be based on and determined by the principle of equity and justice ; and must be high enough to enable them to enjoy a reasonable standard of living and thereby keep them honest and efficient workers.

During the Time of the Holy Prophet : The Holy Prophet laid down some fundamental principles for determining the wages of Government servants. It is reported that the Holy Prophet said : "For a Government servant, if he is not married, he should get married ; if he has no servant, he may have one ; if he has no house to live, he may build one ; and any one who exceeds this limit is either a usurper or a thief."¹ This *Hadith* gives us two basic principles governing wages of the Government servant : Firstly, the Government on its part is responsible to meet the real and practical needs of its employees ; secondly, it is dishonesty on the part of the employees to claim more from the state treasury than one's real needs. If the wages of Government servants are determined according to this principle, there can never be unjust and unnatural difference in the wages of higher grade and lower grade officers of the Government.

During the Caliphate : The Caliphs of the Holy Prophet clearly laid down the principles initiated by the Holy Prophet for fixing the wages of Government servants. Many factors were taken into account in determining the wages ; besides the ability of the worker, the nature of his work and his economic responsibilities were also given due consideration. Umar, the

1. Abu Daud and *Kitab-al-Kharaj*, quoted by Naeem Siddiqi, *Muashi na hamwarian aur un ka Islami Hal*, 2nd Edition, 1958, P. 167.

second Caliph, clarified this principle in some of his speeches with regard to the distribution of grants and allowances.¹ He explicitly stated the importance of the following few points in determining the amount of grants and allowances :

- (1) What services has a person rendered to the cause of Islam ?
- (2) What hardship has a person undergone, or is undergoing for Islam ?
- (3) How long a person has served Islam ?
- (4) What are the real (i.e., actual) needs of a person ?
- (5) What are the economic responsibilities of a person (i.e., the size of his family) ?

It is true the terms used here refer to the early stages of the Islamic Movement, but a little thought will show that they contain the basic principles which govern wages in any society as shown below :

(a) It is reasonable to make allowance for the time and money spent in acquiring the necessary knowledge, skill and training of a trade.

(b) The length of service of a person must also be taken into consideration.

(c) Then due allowance must also be given to the nature of one's work, degree of physical and intellectual labour required in a trade.

(d) The extent of actual economic needs must also be given proper consideration.

(e) The number of dependents should also be given due consideration.

All these points were taken into consideration in determining the wages of Government servants by the early Caliphate. An addition of a child to the family of a Government servant meant an increase in his allowance from the treasury. And any change in the responsibility of a job, in the education and train-

1. Naeem Siddiqi, op. cit., pp. 161-163.

ing, length of service and real needs of a person was duly rewarded by an increase in his allowance by the Caliphate. There were no unjust differences in the wages of Government servants. The differences in the natural ability, training, service, nature and responsibility of work and economic needs etc., were justly maintained in remuneration, but only to a degree justified by the afore-mentioned factors. Though the differences in remuneration of Government servants was maintained, the lowest wages were high enough to cover all the necessary expenses of the low-grade officers, so that they could enjoy a decent standard of living. The difference between the highest and the lowest wages was moderate but not very wide as we find today in the capitalist countries.

The differences in wages existed during the early Caliphate and many officials were paid very high wages but it did not create any wider gulf between the low-grade and the high-grade workers, so as to cause any economic or social friction between the two groups. In fact, remuneration of Government Officials was very carefully fixed, so that the one with the lowest wages was able to meet all his basic requirements, while the one with the highest wages was not able to indulge in extravagance or luxuries of life. In the year 15 *Hijra*, excluding the wives of the Holy Prophet and the companions of the Holy Prophet who had fought at *Badr* and *Uhad*, the minimum wage was 200 *dirhams* (about 100 Rupees), while the maximum was 2000 *dirhams* (1000 Rupees); a rate of 1 : 10. As income of the Government increased and *Muslim* society became more affluent, the minimum rose to 300 *dirhams* and maximum 3000 *dirhams*; again a ratio of 1 : 10.

It is true that there was difference in the wages of Government servants even in the times of the Holy Prophet and his Caliphs, but it was kept within moderate and natural limits. And such a difference is quite natural and inevitable because of the differences in the natural ability, education, training, nature of work, economic responsibilities and length of service etc., among different workers. But the most important thing

is that this difference in wages was not allowed to go beyond certain prescribed limits. The ratio of difference in wages was kept around 1 : 10, whereas in the modern capitalist countries the ratio is as high as 1 : 200; not to speak of the fabulous earnings of hundreds and thousands of film and T.V. stars. Even if we take into account the salaries of the wives and the Companions of the Holy Prophet who fought at the battles of *Badr* and *Uhad* (and were paid about 5000 *dirhams* and 3000 *dirhams* respectively as a special case of the association with the Holy Prophet and thereafter, this favour ended for all times), the ratio does not go beyond 1 : 25.

Islam does not approve of a wage system which permits wide and often unjust differences in the salaries of Government Employees. Among other things, such a system is very unfair to the low-grade employees who get very low salaries, not enough to maintain one person, what to speak of a family on a decent standard of living. Then employees in District Boards, Municipal Committees and other Local Self Government Institutions get terribly low salaries. And it is not surprising that many of these low-paid employees become corrupt in order to meet the basic needs of their families. It seems that the Government, by paying them low wages, deliberately lead them to a life of corruption.

In the former colonies of the British, now independent states, the salaries of Government employees, especially the low-grade, were deliberately kept low in order to encourage bribery and corruption among the peoples of the colonies. The salaries of Government employees were fixed arbitrarily without any regard of their economic responsibilities. The result was that one person was getting a monthly salary of Rs. 25, another of Rs. 400 and still another of Rs. 5000. This led to the most inequitable and tyrannical differences in the earnings of different grades of Government employees: the ratio of difference varying from 1 : 100 and 1 : 200.

The colonies which attained independence should have re-assessed their wage-system and salary-structure in order to

remove such unjust differences in the remuneration of Government employees : but unfortunately the old British-made unjust salary system in the Government services is still being maintained in many of the *Muslim* countries. And as the private firms and industries follow the Government in such matters, the National wage-rate has remained terribly low in almost all the newly independent *Muslim* states. The rise in the cost of living in recent years has further aggravated the situation. It has become increasingly difficult for the Government employees, especially low paid, to meet their rising expenses with their low salaries. This has opened the door for bribes, misappropriation of Public Funds and other such mal-practices. And in fact this enforced poverty has weakened the moral character of the people to such an extent that nothing good can ordinarily be expected from them without first changing the entire wage-structure in these countries.

It is absolutely vital for the prosperity and progress of the *Muslim* states to re-construct their wage-system in accordance with the teaching of the Holy Prophet. And to fix the minimum wages on the basis of the principle of 'right to livelihood' of every worker. It is essential that in determining the lowest wage rate the economic needs and responsibilities of the worker should be taken into consideration so that even the humblest worker of the state is able to enjoy a decent standard of living. A great care should be taken in determining the wage-system so that the differences between the highest and the lowest wages is kept within reasonable and just limits.

It is the duty of every true believer to endeavour in his own right to assist in bringing about a change in the existing un-Islamic and unjust wage system and to replace it by a more equitable and fair wage system. It is advisable that the following three points be taken into account in reconstructing a wage system :

(1) Minimum wages should be high enough to meet the essential requirements of the worker.

(2) Economic responsibilities of the worker, including the size of his family, must be given due consideration.

(3) The difference between the wages should be confined within narrow limits as justified by the natural differences in the nature of work, length of service, education and training and economic needs of each worker ; but wages should under no circumstances be allowed to go beyond the limits set by these factors.

Remuneration of High Officials : Remuneration of high officials, which include the head of the State, governors, ministers etc., are not determined according to the principles explained above. In fact, these officials are not paid any remuneration but only an allowance to meet their necessary expenses which are determined according to the average standard of living of an ordinary citizen of Islamic State. The Caliphs of the Holy Prophet and the members of their Advisory Council never received allowance more than their basic needs.

The first Caliph, *Abu Bakr*, bequeathed that the entire amount of allowances he had received during his Caliphate should be repaid to the treasury from his property.¹ And *Umar*, the second Caliph, clearly explained the nature of his allowance in these words : "My position regarding your treasury is like that of a guardian of an orphan ; if I be rich, I will not take anything from it, but if I be needful, I will get my remuneration equitably." And after great calculation what he fixed for himself was two *dirhams* (Re. 1) per day i.e., Rs. 30 per month.¹

The Holy Prophet, by his unique example had established the fundamental principles regarding allowances for high officials which were strictly observed by his Caliphs and his companions. *Umar* laid down Public Services Code for the high officials which governed their allowances as well as their standard of living. The following extract from his address to his governors and administrators can give you a glimpse of his Public Services Code :²

1. *Naeem Siddiqi*, op. cit., pp. 168-169.

2. *Kitab-al-Kharaj*, quoted by Allama-Shibli Numani *Umar the Great*, English translation, op. cit., Vol. II, pp. 32-33.

Beware! I am not sending you as rulers and aggressors but as teachers (and leaders) for guidance, so that the people may receive (right) guidance from you. Therefore :

- (1) Fulfil rights of the *Muslims* (i.e., the people).
- (2) Don't punish (or imprison) them in order to humiliate them.
- (3) Don't flatter them for they may be deceived.
- (4) Don't close your doors on them so that the strong may devour the weak.
- (5) Don't give preference to yourself over them so that you may transgress (their rights)."

And every precaution was taken in order that the Public Services Code was observed by all the high officials of the Islamic State. Whenever any appointment to the high post was made, the letter of appointment contained all the conditions to which generally an oath of allegiance was taken public. The conditions were :

- (i) You shall not ride on a Turkish horse (which was considered to be a luxury in those days ; Rolls Royce or Cadellac may be considered equivalent to a Turkish horse in modern times).
- (ii) You shall not wear thin clothes (use of thin and fine clothes was a luxury of the rich ; it may be compared in modern times to extravagant life of those who take pride in having unlimited number of suits for themselves and dresses and sets of gold or jewel ornaments for their wives).
- (iii) You shall not eat bread of fine flour (which again was a luxury in those times ; the real object was to discourage life of luxury and ease, especially for the high officials, who would thus set a bad example for the public).
- (iv) You shall not keep a guard at the door of your house but shall always keep the door open for the needy (It simply means this that the public should have free access to the higher officials, so that the wronged person might have the opportunity

to present his case to the highest authority in the state. In other words, every individual should have the right and freedom of access to the higher authorities.

The purpose of all these measures was to check extravagance and luxury among the higher officials and to accustom them to an average life of an ordinary citizen of the Islamic State.

Stability of Wages : In order to maintain wages at a reasonable standard, *Islam* has given complete freedom of mobility to labour (for details see Chapter on Labour). They are free to move and seek their livelihood in any part of the country. There are absolutely no restrictions on their movements from one area to another area of the state in order to seek higher wages.

The second method to standardise wages throughout the country recommended by *Islam* is complete freedom of occupation. Every man is at liberty to select any occupation of his own choice and there are no restrictions which may in any way create difficulties in the selection of occupation or in the choice of geographical area of work for the labourers. As a result, labour force is distributed in all occupations and in all parts of the country in proportion to its demand, and there can be rarely any excess or shortage of labour anywhere. This freedom of mobility of labour between different areas and occupations greatly helps to maintain stability in the wages throughout the country.

Labour-Capital Relationship : Modern industrial system divides labour and capital into two hostile camps whose interests always conflict and lead to great waste of capital and man power in the capitalist countries. In spite of legislative measures to protect the rights of labour, the conflict has not decreased but has in fact increased in recent years, especially in the United Kingdom and the United States of America. Even the trade union movement has failed in its objective and there are very often unofficial strikes in every industry in these countries and millions of pounds worth orders are lost every year by the Western countries, the United Kingdom in particular, on account of strikes because they cannot deliver the goods in time.

This conflict and rivalry between labour and capital cannot arise in an Islamic State. *Islam* links both labour and capital in the chain of fraternity and brotherhood in such a way that their interests do not clash. It encourages among its adherents noble sentiments of mutual trust, good-will, respect for other's rights, equality, equity and love and affection. A Muslim capitalist cannot remain a true believer if profiteering is his sole object in industrialisation. On the contrary, he will invest his capital in those industries and enterprises which benefit the community and will then be grateful to God for any profit that he receives therefrom. His main object of investment in industrial and other undertakings will always be service of humanity for the pleasure of God. It is true that he will also try, like any other capitalist, to increase his productivity but, this will not be his sole (or even chief) motive in production. He will always consider the greater good of society as well as of those who assist him in production; and will never execute his plan of achieving higher productivity at the cost of either common good or welfare of the people working with him.

This is because of the spirit of good-will and love for others which *Islam* has developed in the true believers. And *Islam* has fostered good relations between capital and labour mainly through moral teaching and paractical examples from the lives of the prophets of God. There is a lesson for us in the story of *Moses* and *Reuel* to improve industrial relations and put an end to this conflict between labour and capital. After killing a man in Egypt when *Moses* turned to *Midian* and daughter of *Shuaib* advised his father to employ a healthy and trustworthy labourer in these words :

"O my father, engage him on wages ; surely the best of men for thee to employ is (the) man who is strong and trustworthy."
(28 : 26)

After describing the necessary qualities of a labourer, the Holy *Quran* mentions the good qualities of an employer in the following words ;

"That thou serve me for eight years ; but, if thou complete ten, it will be of thy own free will, and I intend not to place thee under a difficulty. If God pleases, thou wilt find me one of the righteous ." (28 : 27)

Here is a lesson for the capitalists to be merciful and just to their employees in paying them their rightful remuneration and in providing other facilities and comforts in work ; and for the labourers to be hard-working and honest in their duty to the employers and the community. Thus both the employer and the employee are made to realise their duties and responsibilities to one another.

The sense of responsibility is the foundation of human relationship, and *Islam* has tried through its moral teaching to develop this spirit among its followers. The Holy *Quran* appeals in very strong words to all the *Muslims* to be very kind and brotherly to every other *Muslim* merely to seek the pleasure of God :

"The believers are brethren, so make peace between your brethren, and keep your duty to God that mercy may be had on you." (49 : 10)

Then the *Muslims* are asked to bury their differences and unite into one brotherhood of *Islam* in these words :

"And hold fast by the covenant of God all together and be not dis-united. And remember God's favour to you when you were enemies, then He united your hearts, so by His favour you became brethren." (3 : 103)

The *Muslims* are in this verse of the Holy *Quran* promised mercy of God, if they treat one another like brothers and live peacefully without any conflict amongst themselves. Whether the conflict is of political nature between political parties, or of industrial nature between labour and capital, they are all advised to end these rivalries and join the brotherhood of *Islam*. It is a clear directive to tyrannical and unjust capitalists to mend their ways or else they will be deprived of the Mercy and Blessing of God. Considering from another angle, this attitude of

the unkind capitalist is not even materially beneficial to him for, by depriving the labour of its just and rightful share, he deprives himself of huge profits through strikes and other form of industrial action by the labour.

In fact, the true believers are those who are linked together by ties of love and affection and whose interest is common. Therefore a *Muslim* capitalist will not find his interest opposed to those of labour, because both are working, though in different capacities and positions, for the benefit of society merely to win the pleasure of God. Both of them are endeavouring to win the pleasure of God by doing good to humanity. There is no reason then that they will not be good to each other. It is most probable that they will work together and will help one another like brothers to solve their mutual problems amicably.

The Holy Prophet by word and deed helped to cement these relations between labour and capital; he created a society of equals wherein all worked together and helped one another merely to seek the pleasure of God. All this helped to strengthen this relationship.

According to *Abu Musa*, the Holy Prophet said: "Believers are in relation to one another as (part of) a body, one part of which strengthens the other." And he put the fingers of his one hand into those of the other (to show the relation of the whole to the parts).¹

While addressing the believers at the Last Pilgrimage, the Holy Prophet said:² "Understand it well that a *Muslim* is the brother of a *Muslim* and all *Muslims* are brothers one to another. It is not lawful for one to take by force anything which belongs to his brother except what he gives of his own accord. Anyone who does this will do wrong to himself. Beware! I have given the message (of God to you)."

Thus through such moral teaching *Islam* tries to build up a social structure which helps in improving relations between labour and capital. It enjoins the parties concerned to settle

1. *Bukhari*, quoted by Dr. Yusuf-ud-Din, op. cit., Vol. I, P. 135.

2. *Tabri*, P. 1755, quoted by Dr. Yusuf-ud-Din, op. cit., Vol. I, P. 135.

their affairs in a brotherly fashion with love, compassion and good-will. In other words, while dealing with other people, they should not only look to their own interest but also to the interest of their brethren for they are commanded to like for their brothers what they like for themselves. If the practical problems are solved in this spirit, there shouldn't be any conflict of interests between labour and capital. And if there is any difference of opinion on any matter between them, the Islamic State has a moral obligation and a legal right to interfere and decide the issue with justice and equity so that no one is wronged.

Rights of Labour: The fact that wealth is jointly produced by labour and capital is fully recognised by *Islam*. It reminds them both their duty to God and His creatures and enjoins them to look after the interests of others like their own. But as labour is in a comparatively weaker position and his interest is likely to be jeopardised by capital, *Islam* takes special care to protect his rights. The Holy Prophet treated his servants as members of his family and advised his companions to treat them well. He is reported to have said:¹ "Slaves and servants should be given food and clothing according to the prevalent custom and should not be subjected to labour that they cannot bear."

Labour disputes arise either from wages or the nature of work; the Holy Prophet laid stress on both these points in the above *Hadith*. He often advised his companions to pay good wages to labourers.

Anas, who served the Holy Prophet for a long time, specially mentioned that the Holy Prophet never gave low wages to anyone.²

It is reported that the Holy Prophet gave instructions that "the wages of a labourer should be paid before his sweat dried up."³

1. *Muatta*, Malik, quoted by Dr. Yusuf-ud-Din, op. cit., pp. 384-385.

2. *Bukhari*, op. cit., Vol. I, Kitab-al-Ijarah, P. 505, No. 2105.

3. *Ibn Maja*, *Baihaqi*, Vol. VI, Kitab-al-Ijarah, P. 12, quoted by Dr. Yusuf-ud-Din, Vol. II, P. 383.

Abu Hurairah reports that the Holy Prophet said: "That God will be the enemy of three persons on the Day of Judgement — and the third person of these is the one who employs a labourer and gets full work from him but does not pay him his wages."¹

The Holy Prophet had forbidden the employment of any labourer without first settling his wages.²

The Holy Prophet was very kind to the servants and whenever any of his servants was sick, he would visit his house and enquire about his health. *Umar*, the second Caliph, made it one of the duties of the Government officials to look after the sick slaves (and servants) and to visit them whenever they were sick.

Thus *Islam* endeavours through moral teaching to persuade the employers to pay reasonable wages to labourers and provide other facilities in their work, but if they do not comply with these instructions, the Islamic State then has the right to interfere in these matters and guarantee them their rightful share. If any capitalist pays them less wages or gives them too heavy work or makes them work for longer hours without reasonable remuneration or makes them work under unhealthy or unhygienic conditions etc., the Islamic State has the legal right to interfere in order to safeguard the rights of labour.

Abu Masud Ansari reports that one day he was beating his slave when he heard a voice from behind: "O *Abu Masud*! You should know that God has greater power over you." When I looked back, there was the Holy Prophet. I at once said: "O Prophet of God. I free this slave to seek the pleasure of God." The Holy Prophet said: "If you had not done this, fire of Hell would have burnt you."³

Umar used to go to the suburbs of *Madina* and whenever he found any person doing harder work than he could bear he helped him to lighten his burden.⁴ And he was very strict in

1. *Bukhari*, op. cit., Vol. I, P. 501, No. 2095.

2. *Baihaqi*, *As-Sunan-al-Kubra*, Vol. VI, *Kitab-al-Ijara*, P. 13, quoted by Dr. Yusuf-ud-Din, Vol. II, P. 384.

3. *Muatta*, Malik, quoted by Yusuf-ud-Din, op. cit., Vol. II, P. 385.

4. *Ibid.*, *Imam Malik*, Urdu translation, op. cit., P. 772.

protecting the rights of labour. He himself very strictly observed all the regulations concerning labour and forced other to comply with them. When he went to Jerusalem to sign peace contract with the Christians, he and his slave rode by turns on one camel; when they entered the gates of the city, it was the turn of the slave to ride and *Umar* was walking on foot.

Once *Umar* saw an old man begging in the streets, after making enquiries, he fixed an allowance for the poor man and issued orders that all such people be given allowances from the treasury.

In the light of this discussion, the basic rights of labour may be summarised as follows:

(1) The labourer is entitled to a wage which enables him to enjoy a decent standard of living.

(2) He should not be given any work which is beyond his physical strength; and if at any time, he is entrusted with heavy work, he should be provided with assistance in the form of more labour or capital, or both.

(3) He should be given suitable medical aid when sick and paid adequate sick pay for that period. It would be most desirable if the contribution of labour and capital towards sick pay were supplemented by Government assistance (possibly from *Zakat* Fund).

(4) Reasonable provision should be made for the payment of old-age pension to the labourer. The employer and the employee may be asked to make some contribution towards this fund, but mainly it will be contributed by the Islamic State from *Zakat*.

(5) The employers should be encouraged to spend all their *Sadaqat* (voluntary charity) on their employees and their children.

(6) They should be paid unemployment insurance benefit during periods of unemployment from *Zakat* Fund. It will strengthen their bargaining power and will assist in stabilising the wage rate at a reasonable level in the country.

(7) They should be paid adequate compensation for accidents during work.

(8) Goods manufactured in the factory should be given to them free or at cheaper rates.

(9) They should be treated gently and politely and forgiven if they make any mistake during work.

(10) They should be provided with decent accommodation so that their health and efficiency may not be adversely effected.

Fines : *Islam* forbids the employer from imposing any fines on his employees in case of damage to goods or appliances during work. The principle that the employer should under no circumstances be given any power to impose fines on labour was stated by *Imam Ibn Hazm* in these words : "The labourer, whether a partner or an artisan, cannot be subjected to a fine, if the goods are damaged by him during work, unless it is proved that he did it deliberately and the witnesses are available ; otherwise his statement with affidavit in support of his defence will be accepted."

All the Muslim jurists, including *Imam Abu Haneefa* and *Imam Malik*, agree that no fine can be legally imposed on a servant (labourer), who is employed for any period of time on fixed wages for damaging goods (or tools) unless it was proved that he did it wilfully and purposely.

Profit-Sharing Schemes : The profit-sharing scheme in an effective means of keeping labour and capital together and improving their relations. It is suggested that if a share of the profits from business is given over to labour, it will greatly increase his efficiency of work. When he knows that he is getting a share from the profits, he will work harder, and will do his best to increase production. He will handle machinery with great care and will economise in the use of raw-material and semi-finished products in order to increase productivity.

Islam has greatly appreciated the utility and effectiveness of this scheme in business and has advised the *Muslim* employers to pay labour what it has contributed towards production :

"And that man can have nothing but what he strives for."
(53 : 39).

The best way to fully compensate a labourer for the work he has done in production is to give him a share from the profits. It will definitely increase his interest in work and thereby his efficiency of work. The Holy Prophet was very keen in giving a share to labour from production. (Once he advised his companions in these words :¹ "Give a share to the labourer from his work because no worker of God is sent back unrewarded." And according to *Abu Hurairah*, the Holy Prophet said :² "When a servant belonging to any of you prepares your food and brings it to you, you should make him sit with you at the dinner table and if you cannot make him sit with you, then you must give him some food for he has worked hard and borne heat of cooking (the food)."

The use of the words "make him sit with you at the dinner table" is very significant; it shows that the Holy Prophet was very anxious to see the labourers well rewarded. He in fact wanted them to be rewarded generously so that they could, at least in their basic needs, come up to the level of the employer. This seems to be the real intention of the Holy Prophet in asking the employers to "make their servants sit with them at the dinner table ;" but, if due to unavoidable circumstances, they cannot share dinner with them at their own table, they give them a portion of it to carry and enjoy themselves. The latter part of *Hadith* seems to be the second choice and an exception. The real intention of the Holy Prophet was to enable the labourers to get a bigger share of the profits, so that they could come closer to their employers in their basic needs, but if, owing to certain unavoidable circumstances, this was not practical, then the Holy Prophet asked them to give some portion of the product to the labourers.

1. *Musnad Ahmad*, quoted by Dr. Yusuf-ud-Din, op. cit., Vol. II, P. 387.
2. *Bukhari, Abu Daud, Tirmizi*, quoted by Dr. Yusuf-ud-Din, Vol. I, P. 387.

The Holy Prophet was fully conscious of the effect of the profit-sharing schemes on the efficiency of the worker, otherwise he would not have emphasised it so much. It is a hard fact of industrial experience that, if a worker is given a share in the profits, his efficiency of work is increased manifold. In the words of Professor Taussig: "Profit-sharing is a device for binding together the employer and the employees engaged in a given enterprise—The one important and permanent source of pecuniary gain would be in greater efficiency on the part of the industrial workman. Knowing that he is to have a share in the profits, he may be expected to work more consciously and more assiduously, to save materials and to care for tools. Thus he will contribute as much in additional output as he receives in bonus; not only as much but perhaps even more; so that the employer, after paying the bonus, will find output and presumably profits increased. That there is material as well as spiritual waste under ordinary wages system has already been pointed out."¹

It is undoubtedly true that a worker in general takes greater interest in his work when he is given a share in the profit. However, honest and hard-working a labourer may be, he will not work as hard as he will when he expects a greater share from the increased profits. And it is because of these real and material advantages of this scheme that *Islam* has proposed a share for the worker in the profits.

Protection of Labour's Rights: Although labour and capital enjoy complete freedom in industrial problems, the Islamic State has a legal right to protect the rights of the former from encroachment by the latter. According to *Imam Mahwardi*,² if anyone encroaches upon the rights of labour, e.g., pays them less wages or make them work for longer hours, the Government Officials will have the necessary powers to interfere and stop them from doing this. Thus rights of labour are fully protected from encroachment by the employers.

1. Taussig, *Principles of Economics*, Vol. II, Chapter 59, pp. 335-340.
2. *Ahkam-al-Sultania*, Chapter 20, P. 242, quoted by Dr. Yusuf-ud-Din, op. cit., P. 384.

In fact *Islam* grants more rights to animals than labour enjoys in many capitalist countries today. The Holy Prophet enjoined all those who took any work from animals to observe three conditions: (i) They should be taken to work when fresh, and relieved of work when still fresh (and not to be over-worked); (ii) Suitable arrangements must be made at proper intervals for their fodder, water and rest; and (iii) They should not be beaten and sworn at.¹

Thus the Holy Prophet strongly advised the *Muslims* to take moderate work from the animals, and not overwork them or overload them. Once the Holy Prophet told a woman that she deserved Hell merely because she kept a cat tied up without food and water. According to *Abu Hurairah*, the Holy Prophet had forgiven a prostitute on account of her saving the life of a thirsty dog by giving it water.²

A religion which cares so much for the protection of animals, you can well imagine, how much would it care for the rights of human beings. Where hunger and thirst of a cat is not tolerated, how would it tolerate half-starved labour working hard in factories and on farms? A woman is condemned to Hell for not giving food to an animal, what would be the punishment of those who deprive human beings of their rightful share and devour the fruit of their labour. *Islam* has not left the problem of wages and the welfare of the worker on moral judgement of the employers, but has taken necessary steps to ensure that he gets his rightful share. It guarantees them minimum wages and good working condition in order to enable them to enjoy a decent standard of living.

The Islamic State is responsible for looking after their interests in times of unemployment, slumps, trade cycles and other financial stringencies which may lead to closure of industries in the country. In such emergencies the state can use *Zakat* Fund to provide financial assistance to labour (for details see Chapter on Interest and *Zakat* in the 2nd Volume).

1. Naeem Siddiqi, op. cit., P. 181.
2. *Bukhari*, op. cit., Vol. I, P. 185, No. 678.

Sadaqat and Labour : *Sadaqat*, compulsory as well as voluntary, which are collected in the Central Treasury, can be used to assist labour in times of unemployment and other emergencies. It is a very useful and effective means of increasing the bargaining power of labour against capital. In a *Muslim* society the relations between labour and capital are very cordial and brotherly ; capital is generous, considerate and sympathetic to labour ; while the latter is honest and hard-working. But sometimes, owing to financial interests or mere selfishness the capitalist forgets the noble ideals of service and compassion for others and tries to encroach upon the rights of labour. If a portion of *Zakat* is kept to support labour during unemployment or other circumstances tactics of unscrupulous capitalists will become utterly ineffective and wage rate will remain steady at a reasonable level.

The Government can assist to check such tyrannical action of the employers in three ways : Firstly Government may operate such a Fund (from *Zakat*) for the support of labour independently without any help from any other body in the country ; secondly it may create a separate organisation consisting of the representatives of labour and capital to look after the interests of the working class ; and thirdly, it may keep both the organisation of labour and capital and its separate Fund working independently for the betterment of labour.

Small contributions may be made by labour and capital, but the major portion of this Fund will come from *Sadaqat*. This Fund will have a tremendous psychological effect both on labour and capital. It will create confidence among the labourers and good-will among the employers. Capital will be restrained from taking any step which may infringe the rights of labour ; while the latter will work confidently without any fear of redundancies or unemployments or fall in wages.

Another very useful scheme for assisting labour in gaining economic power as well as bargaining strength, is the offer of ownership of a few shares in the business to the worker through contribution partly by the employers and partly from the *Zakat*

Fund. In this way a worker can acquire between 30 to 50 shares in the firm in his lifetime. Such a scheme will help each worker in acquiring some shares and at the same time enable him to get some control over the management and supervision of the firm. And it is very likely to increase the efficiency of work and hence productivity of each worker. Besides, it can provide very useful assistance in times of unemployment for his unemployment insurance will be supplemented by his profits from these shares. Thus this scheme will serve two-fold purpose ; firstly, it will increase his efficiency of work, and secondly it will provide economic assistance which can be most welcome, especially in times of unemployment and other unforeseen circumstances.

Unemployment Insurance : In a *Muslim* society provision of sustenance is the responsibility of the state ; if any member of the state is invalid or sick or unemployed, then it is the duty of the Government to provide financial assistance to such people to tide over difficult times. Caliph *Umar* actually made experiments in order to find out how much daily grants would be required to cover the daily basic requirements of a person. This was done to ensure that every man was paid enough to meet his essential needs.

The Holy *Quran* clearly refers to this function of the Islamic State in these words :

"And kill not your children for fear of poverty—We provide for them and for you." (17 : 31)

In these words God requires the Islamic State to look after the sustenance of its members. And very much so when any of its members is unemployed or sick or invalid.

Again in *Sura 'Zukhruf'* :

"We portion out among them their livelihood in the life of this world." (43 : 32)

The Islamic State, as representative of God on earth, should make arrangements for the sustenance of the sick, unemployed and invalids, so that no one is left uncared for in the community.

Such needy persons should be paid insurance grants during periods of unemployment or sickness to enable them to meet their basic needs. The employers should also be made to contribute towards this Fund. They make huge profits when they are healthy and employed, it is their moral duty to help them when they are unemployed or sick and unable to work.

In fact no state has the right to claim obedience to its laws from its members, until it has guaranteed minimum basic needs for them all. It is only after the provision of necessities of life to its needy (or unemployed or sick), that it can claim such obedience from them :

Praise be to God, the Cherisher of all the worlds. "The Arabic word '*rabb*' conveys not only the idea of fostering, bringing up, or nourishing, but also that of regulating, completing and accomplishing of the evolution of things from the crudest state to that of the highest perfection. According to *Shaikh Abu-al-Qasim Al-Hussain al-Raghib al-Isfahani*, '*rabb*' signifies the fostering of a thing in such a manner as to make it attain one condition after another until it reaches its goal of completion. Hence '*rabb*' is the Author of all existence. Who has not only given to the whole creation its means of nourishment but has also before-hand ordained for each a sphere of capacity and within that sphere provided the means by which it continues to attain gradually to its goal of perfection."

Thus our obedience to God is based on the fact that He is the Cherisher, the Sustainer, the Nourisher and Bestower of all our needs and requirements from the cradle to the grave. All our powers, strength, energies are the blessings upon us. Therefore in recognition of all His favours, physical as well as spiritual, we prostrate ourselves in complete obedience to Him. In other words, our obedience to God is in gratitude to what He has given to us.

When the Almighty God demands obedience from us after granting us innumerable gifts, including nourishment and sustenance etc., without which life on earth would not have been possible ; how could a state demand obedience from its members

without first guaranteeing their basic necessities during periods of unemployment or sickness ? What right has such a state got to demand obedience from its members when it does not even look after them in times of sickness or unemployment ? State and all its agencies take enormous work from the labourers and make huge profits, but when they are unemployed or sick, they just leave them to starve and die.

Islam therefore enjoins on a *Muslim* state to provide insurance grants to labour during times of unemployment or sickness. And it is the duty of a *Muslim* state to ensure that all its members maintain a certain basic standard of living under all circumstances. In order to achieve this objective, the *Muslim* state pays unemployment benefit and sickness allowances from the *Zakat* Fund to enable such people to maintain their customary standard of living in the straitened circumstances. Thus *Zakat* Fund which is collected from the rich for the benefit of the poor, is very rightly used, among other things, for guaranteeing the minimum wages even for those who are unemployed or sick.

A portion of this Fund was used for helping the unemployed and the sick in the community by the Holy Prophet and his Caliphs. And I am fully confident that this scheme can be very successfully re-introduced in our modern agricultural as well as industrial economics to solve the problem of the unemployed and the sick. A portion of *Zakat* Fund can be used to augment the contribution of the employers and the employees so that the workers, when unemployed or sick, may have sufficient allowance to meet their families' basic needs without lowering their normal standard of living. If the *Muslim* states rise to the occasion and use this Fund mainly for the uplift of the poor, the needy, the unemployed, the sick etc., as ordained by the *Quran* many of their economic problems could be solved with their own internal resources without foreign aid.

Chapter 16

PROBLEM OF PROFITS

The share of the National Wealth which is given to the fourth factor of production i.e., Entrepreneur for its services in the process of production is called profits. How much profit should he be paid? And according to what principles should this share be determined? In other words what will be his just and equitable profit? It is one of the most important problems that requires solution. There is no doubt about it that the payment of profit is indispensable for the success and progress of industry for all business is organised in the hope of profit and no entrepreneur will be prepared to work without profit. But only just and reasonable profit can be allowed. Profiteering and black-marketing, which have become a practice with the capitalists and producers and, an indispensable part of capitalism, are against the canons of equity and justice, therefore, they can neither be justified nor tolerated.

Such profit, which is obtained at the cost of the nation and by which few capitalists enjoy a luxurious life, while millions of labourers starve and lead a life of destitution, is fatal for the humanity and can never be lawful. Therefore, like the determination of the share of other factors of production, profit is fixed according to equitable and just principles (without ignoring the common good and welfare of society). The Holy *Quran*, while talking of the guardian of the orphans' property,

has made reference to his (entrepreneurs) share in these words :—

“And let him who is poor take (thereof) according to what shall be reasonable.” (4 : 8)

This verse of the Holy *Quran* shows that the reward of the entrepreneur will be determined according to the nature of his work, prevalent custom and the conditions of work. In every business his share will be fixed according to the prevailing custom in that particular trade. “Custom” is such a wide term and is dependent upon so many factors such as, standard of living of the people, industrial progress, economic conditions and nature of work etc., which change with change in time and circumstances. Therefore in determining the share of the entrepreneur all these factors should be borne in mind, so that it is equitable and just according to the prevailing ‘custom’ and that no party is wronged. Whatever be the amount of this share it must always be reasonable.

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